

CHAPTER THREE

HUGH RODHAM’S ROLE IN LOBBYING FOR GRANTS OF EXECUTIVE CLEMENCY

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FINDINGS OF THE COMMITTEE

Hugh Rodham's Involvement in the Vignali Commutation

Vignali's clemency petition was false and misleading.

- *Carlos Vignali lied in his clemency petition.* First, he continued to maintain his innocence, despite overwhelming evidence of his involvement in selling a substantial amount of cocaine across state lines and a specific finding by the sentencing judge that he lied at trial about his involvement in a large drug distribution network. Second, Vignali claimed that he was a first-time offender, despite the fact that he had a prior criminal record. By not accepting responsibility for his crime and lying about his background, he should not have been eligible for executive clemency.

Vignali's supporters provided letters of support that were false and misleading.

- *A key element of the campaign by Carlos Vignali and his father Horacio, was a series of letters on Carlos' behalf from prominent Los Angeles politicians.* A number of these letters contained misleading statements calculated to create the impression that Carlos Vignali was innocent. The officials who submitted letters included Representative Xavier Becerra, Representative Esteban Torres, State Assembly Speaker Robert Hertzberg, State Assembly Member Antonio Villaraigosa, State Senator Richard Polanco, Los Angeles County Supervisor Gloria Molina, Los Angeles City Councilmember Mike Hernandez, and Cardinal Roger Mahony, Archbishop of Los Angeles.

Los Angeles County Sheriff Lee Baca provided critical support for the Vignali commutation that was inappropriate, given his position.

- *Sheriff Baca had a close relationship with Horacio Vignali that was based on Vignali's political and financial support for Baca.* Sheriff Baca has known Horacio Vignali since 1991, and Vignali has been a key political supporter of Baca, giving him at least \$11,000 in contributions and raising between \$60,000-\$70,000 more.
- *Sheriff Baca spoke with the White House in support of the Vignali commutation.* In January 2001, Baca received a telephone call from Hugh Rodham in which Rodham told Baca that he would get a call from the White House about Horacio Vignali. Shortly thereafter, Baca received a call from White House staff and spoke in support of Horacio Vignali. Based on Baca's statements in this telephone call, White House staff clearly and justifiably concluded that Baca supported the commutation of Carlos Vignali's sentence.
- *Sheriff Baca continues to claim, without any basis, that he did not support the Vignali commutation.* Rather than express regret for his role in the Vignali commutation, Sheriff Baca maintains that he opposed the Vignali commutation and did nothing that could have been interpreted as support for the commutation. However, Sheriff Baca's supposed opposition to the Vignali commutation does not square with the fact that: (1) he drafted a

letter that he believed Horacio Vignali would use in the clemency effort and (2) when he was asked squarely by the White House if the President should commute Vignali's prison sentence, he stated that it was "the President's decision to make," rather than express his opposition. These facts, and others outlined in this report, indicate that Sheriff Baca wanted to support the Vignali commutation, but was afraid of creating a paper record that would clearly indicate his support.

- *Sheriff Baca's efforts on behalf of the Vignalis are even more inappropriate given that there were extensive allegations that Horacio Vignali, Carlos' father, was also involved in illegal drug trafficking.* It is inappropriate enough for a senior law enforcement official like Baca to support a grant of clemency for an unrepentant, large-scale drug dealer like Carlos Vignali. However, when coupled with credible allegations indicating that Horacio Vignali was a drug dealer, and in fact was the source of cocaine supply for his son, Baca's support of Horacio and Carlos Vignali is even more inappropriate.

U.S. Attorney Alejandro Mayorkas provided critical support for the Vignali commutation that was inappropriate, given his position.

- *U.S. Attorney Alejandro Mayorkas called the White House in support of the Vignali commutation.* Mayorkas, the top federal prosecutor in Los Angeles, was asked by Horacio Vignali to call the White House in support of his son's clemency petition. Mayorkas then called the White House about the Vignali commutation. While Mayorkas does not recall the details of his conversation, he now concedes that his call conveyed support for the Vignali commutation.
- *Mayorkas supported the Vignali commutation despite his ignorance of the facts of the case and his knowledge that the prosecutors responsible for the Vignali case opposed clemency.* Before he called the White House, Mayorkas had spoken twice with Todd Jones, the U.S. Attorney responsible for the Vignali case. Jones told Mayorkas that Vignali was a "major player" in drug trafficking, that he was "bad news" and that Mayorkas should not "go there" when it came to Vignali. Despite these warnings from a prosecutor who was intimately familiar with the Vignali case, Mayorkas still called the White House in support of the Vignali commutation.
- *Mayorkas' support for the Vignali commutation was inappropriate.* Mayorkas knew little about the Vignali case. What he did know indicated that Carlos Vignali was an unrepentant, large-scale criminal. These facts alone make his support for the commutation, as a senior federal prosecutor, totally inappropriate.

There are a number of allegations that both Horacio and Carlos Vignali were involved in illegal drug trafficking.

- *There are allegations that, in addition to his son, Horacio Vignali was involved in illegal drug trafficking, and that Carlos Vignali was involved in drug trafficking far beyond the conduct that led to his conviction in Minnesota.* DEA reports documenting these allegations include the following statements:

“[Horacio Vignali] negotiated with ATF agents to sell a machine gun and stated to them that he had also smuggled heroin into the United States utilizing automobiles.”

“[Redacted] has also purchased cocaine from Carlos Vignali Jr. of Los Angeles ... Vignali’s father Carlos Vignali aka “pops” owns a body shop, at 1260 Figueroa and is the source of supply for his son.”

“Carlos Horatio Vignali’s role in [George Torres’ drug dealing] organization is relatively unknown at this time. It is believed that Vignali functions as a financial partner in the organization.”

- *These DEA reports are corroborated by law enforcement personnel who indicate that they had received information indicating that both Horacio and Carlos Vignali were involved in large-scale drug trafficking.* These charges have never been formally made in court or substantiated by physical evidence. However, the mere existence of such allegations should have precluded senior law enforcement and political officials from supporting a commutation for Carlos Vignali on the strength of his father’s reputation. Nonetheless, it appears that no one checked with the DEA prior to granting the commutation.

Hugh Rodham provided false and misleading information to the White House in support of the Vignali commutation.

- *Hugh Rodham was paid \$204,200 for his work on the Vignali commutation.* It appears that, in return for this money, he worked part-time for two months gathering materials in support of Vignali’s case and making telephone calls to White House staff. It appears that Rodham’s payment in the Vignali matter was contingent upon his success, as he received the \$200,000 payment on January 24, 2001, after President Clinton granted clemency to Vignali.
- *Rodham repeatedly provided false information during his communications with the White House.* First, and most importantly, Rodham told Bruce Lindsey that the trial attorney who prosecuted Vignali supported the commutation. This was completely false. Second, Rodham told Lindsey that Vignali was a first-time offender when, in fact, he had two prior convictions and two other arrests. Rodham also told Lindsey that Vignali “did not play a major role in the offense” when, in fact, Vignali was a major source of cocaine for the Minnesota drug-dealing ring at issue in his case.

Hugh Rodham told the White House that First Lady Hillary Rodham Clinton was aware of his lobbying efforts and that the Vignali commutation was “very important” to her.

- *Hugh Rodham told White House staff that the Vignali commutation was “very important to him and the First Lady as well as others.”* This statement is confirmed by the independent recollection of the White House staffer who spoke to Rodham as well as the note that she took contemporaneously. Rodham’s statement raises two possibilities: first, that the First

Lady was aware of and approved of Hugh Rodham's lobbying efforts; or, second, that Hugh Rodham was lying to White House staff regarding the First Lady's knowledge of his efforts.

The White House sought the opinion of powerful Los Angeles political figures, but failed to consult with the prosecutors or judge who understood the Vignali case.

- *White House staff engaged in telephone conversations with a number of outside individuals regarding the Vignali case – Hugh Rodham, Lee Baca, and Alejandro Mayorkas, none of whom knew very much about the Vignali case.* It appears that key White House staff gave great weight to the input provided by Rodham, Baca, and Mayorkas, even though they knew little about the case and had mixed motives.
- *White House staff failed to reach out to the prosecutors who had convicted Vignali or the judge who sentenced him.* White House staff justified their failure to take this simple action by concluding that they knew that the prosecutors and judge would object, so there was no need to speak to them. However, if the White House had spoken to Todd Jones, Denise Reilly, Andrew Dunne, or Judge David Doty, they would have learned that Carlos Vignali: (1) was not a small-time drug dealer; (2) was unrepentant about his criminal activity; and (3) never cooperated with law enforcement by telling them who supplied him cocaine.

The White House ignored the strenuous objections to the Vignali commutation that were lodged by the Pardon Attorney.

- The Pardon Attorney provided the White House with a report that contained his recommendation against granting the Vignali commutation. This report contained a number of powerful arguments against the commutation, which were apparently ignored by the White House. The existence of the Pardon Attorney's report means that the White House cannot claim that it was totally unaware that Vignali's arguments were completely false. The White House knew that the Vignali clemency petition had no merit, yet decided to grant the commutation anyway. President Clinton's decision raises questions about why the Vignali commutation was granted.

Rodham has apparently misled the public about returning to the Vignalis those fees he received in connection with the clemency and ignored former President and Senator Clinton's request that he do so.

- On February 21, 2001, at the request of former President Clinton and Senator Hillary Rodham Clinton, Rodham promised to return to Horacio Vignali the legal fees he received in connection with the Vignali clemency. But, as of June 2001, Rodham had apparently returned only about \$50,000 of the money that Horacio Vignali paid him. Rodham's attorney has confirmed to Committee staff that Rodham has not returned any additional amounts and has no plans to return the remaining \$154,000.

Hugh Rodham's Involvement in the Braswell Pardon

Glenn Braswell was under investigation by multiple federal agencies and several state attorneys general when the pardon was granted.

- Over the past two decades, Braswell has created a dietary supplement empire using false advertising to mislead consumers. After serving time in prison for mail fraud and tax evasion in 1983, Braswell has continued to defraud consumers about the benefits of his herbal remedies. In addition to facing numerous lawsuits, Braswell's companies have been investigated by the Internal Revenue Service, Federal Trade Commission, Food and Drug Administration, and Better Business Bureau.
- Unsurprisingly, Braswell was under another criminal investigation by federal prosecutors for a massive tax evasion and money-laundering scheme when he was pardoned. Braswell's petition bypassed the traditional route through the Justice Department and went directly to the White House. If the FBI had conducted a background investigation instead of the White House, Braswell's petition would have been rejected quickly.

Braswell paid Hugh Rodham \$230,000 for successfully obtaining the pardon.

- Braswell hired Rodham to support his pardon petition for \$230,000. For this price, Rodham claims he forwarded a letter of support for Braswell to the White House Counsel's Office and made a follow-up inquiry. According to Rodham, these two actions were the extent of his role in the Braswell pardon. Rodham refunded the \$230,000 to Braswell after facing widespread criticism from the media and members of both political parties.

Hugh Rodham's Efforts to Obtain Clemency for the Lums

Gene and Nora Lum, prominent Democratic contributors and fundraisers, were convicted of making illegal conduit contributions and tax offenses.

- *In 1997, the Lums pleaded guilty to making \$50,000 in illegal conduit contributions to the DNC.* They were sentenced to home detention, confinement in a halfway house and a \$30,000 fine. In August 1998, Gene Lum pleaded guilty to tax fraud for filing tax returns claiming more than \$7.1 million in false deductions and was sentenced to two years imprisonment.

The Lums attempted to obtain executive clemency through Hugh Rodham.

- *Hugh Rodham lobbied the White House as part of the Lums' efforts but failed to secure them a grant of clemency.* In December 2000, Nora Lum called one of her husband's criminal attorneys and asked him to send various documents to Hugh Rodham at the White House. He did so. In early January 2001, Rodham called Gene Lum's attorney again and asked him to resend those documents directly to, among others, Meredith Cabe, an associate White House counsel responsible for clemency matters. Subsequently, Rodham telephoned Cabe and discussed the merits of the Lums' pardon request. Cabe then told White House Counsel

Beth Nolan and Deputy White House Counsel Bruce Lindsey about her discussion with Rodham. Both told Cabe that the Lums were not going to receive clemency.

The Lums and Hugh Rodham have refused to cooperate with the Committee's investigation.

- *Gene and Nora Lum have refused to cooperate with the Committee's investigation.* The Lums' daughter, Nicole (with whom Hugh Rodham apparently had some sort of business relationship), has likewise declined to be interviewed by the Committee. Hugh Rodham has also refused to cooperate with the Committee's request for an interview. Therefore, the Committee is unable to obtain a full understanding of the Lums' efforts to obtain executive clemency and Rodham's role in those efforts.

INTRODUCTION

Unlike Roger Clinton, Hugh Rodham was highly successful in leveraging his relationship with the President and First Lady into lucrative work lobbying for grants of clemency. The Committee is aware of three cases in which Hugh Rodham lobbied the White House for grants of executive clemency: Carlos Vignali, Glenn Braswell, and Gene and Nora Lum. Rodham was successful in two of these cases and was paid over \$430,000 for his work.

Simply put, Rodham inappropriately used his access to the White House to lobby for grants of clemency, which were not deserved and would not have been granted but for his intervention. Carlos Vignali was a supplier of cocaine to a major drug-dealing ring in Minnesota who never admitted his guilt or cooperated with law enforcement. Yet, because of Hugh Rodham's efforts, he had his sentence cut from 15 to 5 years. Glenn Braswell was a highly successful con artist who had his earlier fraud conviction erased despite that he was under active investigation for tax fraud at the time of the pardon. The fact that Vignali and Braswell received clemency from President Clinton through the efforts of Hugh Rodham undermines public confidence in the President's exercise of the clemency power and in the equality of our laws.

I. THE CARLOS VIGNALI COMMUTATION

A. The Case Against Carlos Vignali

On December 20, 1993, a federal grand jury in Minnesota issued a 34-count indictment against 30 defendants. The indictment resulted from the largest drug investigation in Minnesota history.¹ According to the indictment, Carlos Vignali and his co-defendants sent large quantities of cocaine to Minnesota by mail from California, converted it to crack, and distributed it quickly on the street.² Vignali was indicted on one count of conspiring to distribute cocaine; two counts of using facilities in interstate commerce with the intent to promote a business enterprise involving narcotics; and one count of illegally using a communication facility to facilitate the

¹ Superseding Indictment, *U.S. v. Vignali* (D. Minn. Dec. 30, 1993) (Exhibit 1). *See also Drug ring case wrapped up with 2 convicted, 1 acquitted*, STAR TRIB. (Minneapolis-St. Paul) Dec. 13, 1994, at 2B.

² *Id.* Superseding Indictment, *U.S. v. Vignali* (D. Minn. Dec. 30, 1993) (Exhibit 1).

distribution of cocaine.³ According to the government, Vignali and his associates sold a kilogram of crack a day as late as November 1993.⁴

The investigation that resulted in Vignali's conviction began locally with a probe of Gerald and Shirley Williams, who were suspected of distributing cocaine.⁵ As the scope of the investigation expanded, Minneapolis narcotics authorities obtained the assistance of federal law enforcement agencies.⁶ Based on information obtained from confidential informants and other sources, authorities initiated a court-ordered wiretap of several residential and cellular telephones to monitor calls to and from Gerald Williams regarding cocaine distribution.⁷ Many of the intercepted conversations to and from Williams' residential and cellular telephones involved coded language and had to be interpreted by investigating officers.⁸

In the course of its wiretap surveillance, authorities intercepted telephone conversations between Vignali and others during which cocaine shipments to Minnesota were discussed.⁹ Authorities ultimately learned that Williams' original supplier of cocaine in California was Dale Evans, who in turn obtained his supply from Jonathan Gray and, later, Carlos Vignali.¹⁰ The evidence obtained in the investigation indicated a broad level of involvement by Vignali in a multi-state conspiracy to distribute cocaine.¹¹ In that context, authorities discovered that, in October 1993, Vignali sold a substantial quantity of cocaine to Todd Hopson in Los Angeles for distribution in the Minnesota area¹² and supplied an additional six kilograms of cocaine to Minnesota-area distributors through use of the mails and the telephone.¹³

On November 9, 1993, Minnesota law enforcement executed warrants on several individuals involved in the drug conspiracy, including Dale Evans.¹⁴ Within Evans' home and vehicles, law enforcement found an AK-47 assault rifle and ammunition, a Desert Eagle pistol and ammunition, a Smith and Wesson 9 millimeter pistol and loaded magazine, a bag containing marijuana, pagers, addresses of other co-conspirators, pictures of him and some of the other co-conspirators target-shooting in California, and various other items.¹⁵ Searches and arrests of

³ *Id.*

⁴ *Drug ring case wrapped up with 2 convicted, 1 acquitted*, STAR TRIB. (Minneapolis-St. Paul) Dec. 13, 1994, at 2B.

⁵ Telephone Interview with Tony Adams, Officer, Minneapolis Police Department, 4th Precinct, Narcotics Division (Mar. 27, 2001).

⁶ *Id.*

⁷ Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 33 (Exhibit 2) (incorporated into Judgment in a Criminal Case as finding of fact).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at para. 31.

¹¹ *Id.* at para. 30, 31, 42, 45, 46, 49, 57, 58, 59, 66, 67, 68, 71. *See also* Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 1001) (describing evidence supporting finding of Vignali's broad level of involvement in conspiracy). Before leaving the U.S. Attorney's Office, Jones obtained, as the lead AUSA in the Vignali investigation, the court orders for the wiretaps; represented the Government at suppression hearings; and presented the case to the grand jury. In 1998, Jones returned as the U.S. Attorney for the U.S. District of Minnesota.

¹² Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 68 (Exhibit 2) (incorporated into Judgment in a Criminal Case as finding of fact).

¹³ *Id.* at para. 42.

¹⁴ *Id.* at para. 85, 87.

¹⁵ *Id.* at para. 87.

other co-conspirators likewise revealed large amounts of cash, cocaine and other contraband, drug paraphernalia, guns, and ammunition.¹⁶ As a result of these searches and arrests and with the assistance of Los Angeles law enforcement, Carlos Vignali was arrested in Los Angeles on May 6, 1994,¹⁷ and extradited to Minnesota for trial.¹⁸

Vignali's trial began on October 27, 1994. In his opening statement to the jury, Vignali's defense attorney, Danny Davis, repeatedly characterized the alleged drug conspiracy as "a black drug network":

[T]he indictment that His Honor read for you – it is a sensitive suggestion about the evidence in this case – and I do it with complete deference to what the court suggested earlier about drugs, and our sensitivities, about race, and our sensitivities – but this conspiracy, the evidence will show, really comes down to a black drug dealing network. One by one those drug dealers, that the prosecution has found it necessary to come in and put on as witnesses, will make clear this is a nationwide black drug-dealing network. You can't get around it. Disabuse yourself that I am prejudiced when I say that. It is a fact. My client is not [black].¹⁹

Counsel for the co-defendants thereupon moved for a mistrial:

Mr. Fenster [Counsel for Melvin Campbell]: [I]t is offensive, what he is doing, and I think that just because he is a defense counsel doesn't excuse him from this kind of offensive behavior, and I think the court – I don't know about a mistrial, maybe that is not appropriate – I am not quite sure what to do, but I think I will move for a mistrial. I think that kind of presentation to the jury is so offensive to the fabric of our law that it is impossible for the jury to now be able to have a fair trial when he's painted the other defendants in a black drug-dealing network. Certainly the prosecution would have a mistrial if they did that.

Mr. Cascarano [Counsel for Todd Hopson]: I join in that motion.

Mr. Gray [Counsel for Claude Oliver Phillips]: I join in that motion and, if the court doesn't grant it, I move to strike every word that Mr. Davis has said about a black drug network around the nation. And, if he says it again, I ask he be jailed. It is the worst conduct I have seen by a defense lawyer in twenty-four years.

¹⁶ *Id.* at para. 85-101. *See also* Telephone Interview with Tony Adams, Officer, Minneapolis Police Department, 4th Precinct, Narcotics Division (Mar. 27, 2001).

¹⁷ Evans immediately cooperated with law enforcement. *Id.* He told DEA that he worked for Vignali, a.k.a., "C-Low" and identified him with a still-shot photograph of Vignali's appearance in a rap video.

¹⁸ Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 102 (Exhibit 2). When he was arrested, Vignali stated that he knew Gray but had not seen him for about a year; that Gray introduced him to Evans, who was interested in possibly buying his townhouse; and that no one had ever referred to him as "C-Low."

¹⁹ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Oct. 27, 1994) at 113-14.

Mr. Cascarano: Your Honor, [what] Mr. Davis has done is paint not only the three black defendants as not clothed with the presumption of innocence, but what he has done is he has painted them guilty by virtue of their skin color.²⁰

The district court denied the motion for a mistrial. However, it did caution the jury that the defendants' race should play no role in its determination of their guilt or innocence.²¹ Even though the court did not grant a mistrial, Vignali's crude effort to play the race card against his codefendants is highly troubling. Vignali's conduct, through his counsel, is even more troubling when considered in light of the fact that one of his supporters later claimed, without any factual support, that Vignali was the victim of racial prejudice at trial.

At Vignali's trial, the government presented compelling evidence showing that he conspired to traffic cocaine, aided and abetted the mailing of at least two packages of cocaine from California to Minnesota, and used the telephone to facilitate the sale of cocaine. That evidence included the testimony of various co-conspirators, including Dale Evans, Gerald Williams, and Ronald Nunn. Evans testified that, beginning in March 1993, he bought cocaine from Jonathan Gray and typically mailed that cocaine to Gerald Williams in Minnesota for distribution.²² Evans also testified that Gray informed him in 1993 that he was obtaining his cocaine from Vignali.²³ Evans first met Vignali sometime during the summer of 1993 when they discussed distributing cocaine and agreed on prices.²⁴

Evans also testified that Todd Hopson, one of the Minneapolis-based cocaine distributors, flew to Los Angeles around October 20, 1993, and met with Evans and Vignali, and Vignali agreed to sell Hopson cocaine.²⁵ Hopson, Evans, and a friend of Evans then followed Vignali to an East Los Angeles apartment where Hopson bought between \$36,000 and \$70,000 of cocaine from Vignali.²⁶ Evans testified that prior to leaving Los Angeles for Minnesota, he made arrangements with Carlos Vignali and Jonathan Gray to have an additional six kilograms of cocaine sent to the residence of Todd Hopson's relative in Minnesota.²⁷

On October 21, 1993, officers conducted surveillance on Evans, Ronald Nunn, and Todd Hopson.²⁸ In the course of that surveillance, officers observed Ronald Nunn picking up Evans at

²⁰ *Id.* at 115-16.

²¹ On appeal, co-defendant Todd Hopson argued that those comments made by Vignali's attorney were so prejudicial that he was entitled to a new trial. *U.S. v. Williams*, 97 F.3d 240, 244 (8th Cir. 1996). However, the appellate court found that Hopson failed to show prejudice. In particular, the court observed that the jury's verdict indicated that it declined any invitation to use race as a proxy for guilt. In support of that view, the court cited the jury's acquittal of co-defendant Claude Phillips, an African-American, and its conviction of Vignali, a Hispanic, on three of four counts.

²² Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 16, 1994) at 86.

²³ *Id.* at 100.

²⁴ *Id.* at 101.

²⁵ *Id.* at 119.

²⁶ *Id.* at 120-21.

²⁷ *Id.* at 137-43. Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 10-12 (Evans testifying that he planned with Ronald Nunn to pick up Hopson and collect a parcel the mailed by Vignali at the residence of Hopson's relative in Egan, Minnesota).

²⁸ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 14, 1994) at 184-86 (testimony of Officer Tony Adams).

Gerald Williams' apartment in Minneapolis.²⁹ Nunn and Evans then drove to Hopson's home in Apple Valley, Minnesota, picked him up, and went to the drop-off location in Eagan, Minnesota.³⁰ They picked up a large parcel and returned with it to the Apple Valley residence.³¹ Evans, Nunn, and Hopson detected police surveillance while driving and attempted evasive maneuvers.³² After Evans noticed that he was being tailed by undercover surveillance, he paged Vignali and Gray in Los Angeles from his cell phone with the emergency code "911." After he had managed to shake off his pursuers, Evans spoke with Gray and Vignali. They did not realize that their conversation was being monitored by the police. Evans told Vignali that "[t]hey followed us all around."³³ He further stated that "[w]e had to shake them, get them off, one in front, back one came, parked down the street, waiting for us, dog, undercrizzovers."³⁴ Evans testified that by "undercrizzovers" he was referring to undercover police and was conveying that he was being chased by the police.³⁵ Evans also told Vignali that he had to start "busting u-turns" to evade the police.³⁶ In response to Evans' report, Vignali asked, "Is that right? So everything's cool, though?"³⁷ Vignali later asked Evans, "How long ago was this?"³⁸ As Evans was continuing to talk to Vignali about the "undercrizzovers," Vignali asked, "Hey, but, you, you, you, um, you made everything straight, right?"³⁹ Vignali also asked, "Don't you think you should be careful before you bust a move?"⁴⁰ Evans responded, "that's what I'm doing."⁴¹ Vignali later paged Evans to determine whether Evans was arrested.

At trial, Vignali contended that, during his conversation with Evans, he did not know what Evans meant by "undercrizzovers" and that he was disoriented because Evans' call had woken him.⁴² Vignali testified that he inferred only that "something was wrong" with a \$20,000 "business loan" that he supplied to Jonathan Gray⁴³ and that Evans either lost or someone stole

²⁹ *Id.*

³⁰ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 16 (testimony of Dale Evans).

³¹ *Id.*

³² *Id.* at 14 (Evans testifying that Nunn detected undercover police surveillance).

³³ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 51 (testimony of Dale Evans); Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 204 (Vignali testifying that Evans paged him "911").

³⁴ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 51.

³⁵ *Id.* at 51, 56 (testifying that he later described to Vignali, "They were following us, riding and shining").

³⁶ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 276.

³⁷ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 51.

³⁸ *Id.* at 52.

³⁹ *Id.*

⁴⁰ *Id.* at 53.

⁴¹ *Id.* at 54.

⁴² Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 204.

⁴³ Vignali claimed that Gray had told him that he needed \$20,000 for a short-term business deal involving Stacy Augmon and several other professional basketball players. Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 248-49 (cross examination of Carlos Vignali); Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 1, 1994) at 39-40 (direct examination by Horacio Vignali); Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 232 (closing argument of Carlos Vignali).

According to Vignali, Gray assured him that he would get \$25,000 back in a matter of days and that, if the deal fell through, Gray would sell his Porsche to cover Vignali's losses. Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 192-93. Vignali claimed that he had \$20,000 in cash to loan Gray because he had saved his allowance since he was a young child and that the resulting stack of \$100 bills, which he had ironed and carefully stacked in his closet, represented his "life savings." See Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 1, 1994) at 40-43. According to Vignali, Gray returned to him the \$20,000 and an additional \$5,000. See Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 188. Also, according to Vignali, a second "business loan" was made

that money.⁴⁴ At trial, prosecutors pointed out that Vignali's defense made no sense. Though he claimed to be confused and "freshly woken up," Vignali cautioned his friend to "be careful" and asked if "everything was cool." The trial transcript makes it clear that Vignali's defense was implausible:

Dunne: I thought that you said, on direct examination, that you didn't understand what he meant by under crizzovers because you had just gotten up?

Vignali: Yes, he, he had just woken me up with the page, sir.

Dunne: Okay. And you will agree with me, will you not, that the time on this transcript [is 12:09 p.m.], Minneapolis time?⁴⁵

* * *

Dunne: You say, when Dale gives you the explanation about the under crizzovers . . . "Is that right?"

Vignali: Yes.

Dunne: Do you say – you don't say to him, "Dale what are you talking about?"

Vignali: No.

Dunne: Okay. And you don't say, "I don't understand this?"

Vignali: No, sir. Bear in mind that I, I had just freshly woken up.⁴⁶

* * *

Dunne: Now you just said that the reason you called . . . [was] that you were concerned about your money?

Vignali: Yes sir.

Dunne: Concerned enough to say Don't you think you should be careful before you bust a move?

Vignali: Yes sir.

Dunne: But you don't ask him what the problem is?

when Vignali "loaned" Gray \$25,000, which, with \$5,000 interest, resulted in the \$30,000 referred to on the tapes. *Id.* at 192-95, 273-75.

⁴⁴ *Id.* at 173, 204, 259; Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 232.

⁴⁵ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 269-70.

⁴⁶ *Id.* at 273.

Vignali: I, I have a little understanding that something wrong is going on, but I'm not exactly sure, he didn't make it clear to me.⁴⁷

* * *

Dunne: What do you mean, something is going wrong?

Vignali: I have no idea. I wasn't there.

Dunne: What did you think was going wrong with your 25,000 dollars?

Vignali: I have no idea.

Dunne: You have no idea?

Vignali: No, sir. I thought maybe, when he told me that it was smashing, maybe something was following him trying – maybe trying to carjack him or something, I don't know – and then he was going to try to tell me, Well I lost your money, or something. I was just concerned about, in that aspect.⁴⁸

* * *

Dunne: Now let me ask you, during this phone conversation where you are concerned about Dale's busting a move with your 25,000 dollars because someone might carjack him. Do you ever tell Dale: Dale, maybe you should call the police if someone is trying to carjack you?

Vignali: I, I didn't, again I will tell you I didn't know exactly what was going on.

Dunne: But you thought somebody was trying to carjack him?

Vignali: It was, it was the morning. I'm – my head – I had just woken up, I wasn't – it – nothing was clear to me, it never was clear to me.⁴⁹

Evans testified that he returned to California the day after he escaped the undercover surveillance.⁵⁰ But, before returning to California, he mailed himself the money he obtained for

⁴⁷ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 30, 1994) at 10-11.

⁴⁸ *Id.* at 12-13.

⁴⁹ *Id.* at 13.

⁵⁰ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 56.

the cocaine.⁵¹ Evans told Vignali and Jonathan Gray in intercepted telephone conversations that he would meet with them to give them the money.⁵²

On October 26, 1993, agents tapped into a phone conversation between Dale Evans and Gerald Williams regarding a new shipment of cocaine, six kilograms sent from Los Angeles to Ronald Nunn's Minnesota home.⁵³ That shipment was intercepted by postal inspectors on or about October 28, 1993.⁵⁴ On October 31, 1993, agents overheard a call between Williams, Evans, and Carlos Vignali regarding the October 26th shipment. Evans asked, "Love [the cocaine shipment] never got there?"⁵⁵ Williams replied, "no."⁵⁶ Evans stated that they had called the post office to see if the package had arrived.⁵⁷ At that point, Vignali, who was apparently with Evans, got on the telephone, said "[t]his is the other end," and told Williams to send somebody into the post office to find out about the package.⁵⁸ Vignali then said, "We sent that right down that day" and told Williams to get on "good horns [a public telephone]."⁵⁹

During that conversation, a prospective 15-kilogram deal was discussed.⁶⁰ The parties conferred about whether the quantity should be broken up into one or two kilogram shipments or shipped all at once.⁶¹ They also discussed the prospect that the buyers might not want to pay for the shipment up front before obtaining all of their cocaine.⁶² They further discussed having someone either drive the shipment from California to Minnesota or having someone come down from Minnesota to California.⁶³

In attempting to explain away these conversations, Vignali argued that the money referred to "life savings" he accumulated as a child from his father and ultimately "lent" to Jonathan Gray. Vignali supposedly lent Gray, who had been recently released from jail for a crime Vignali knew nothing about, a \$20,000 "business loan" for a project which Vignali also knew nothing about. This part of Vignali's story met with skepticism from prosecutors:

Dunne: Now when you gave Jonathon [Gray] this 20,000 dollars for this loan ... for this business proposition or whatever, did he show you any kind of contract?

⁵¹ *Id.* at 56.

⁵² Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 14, 1994) at 189, 193 (Officer Tony Adams); Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 56-58 (Evans testifying that he received money he mailed to himself in California and took about \$80,000 or \$90,000 to Vignali and Gray at Vignali's house).

⁵³ Transcript of Trial, *U.S. v. Vignali*, (D. Minn. Nov. 22, 1994) at 70 (Evans); Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 59-60, 64-66 (Evans testifying to conversation). *See also* Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 57-58 (Exhibit 2).

⁵⁴ *Id.* at para. 65.

⁵⁵ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 69. "Love" was the code word used by the conspirators to refer to cocaine.

⁵⁶ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 164. *See also* Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 66-68.

⁵⁷ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 164.

⁵⁸ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 22, 1994) at 70-71.

⁵⁹ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 17, 1994) at 68.

⁶⁰ *Id.* at 75-76.

⁶¹ *Id.* at 76.

⁶² *Id.*

⁶³ *Id.* at 76-77. That transaction appears not to have been consummated.

Vignali: No, he didn't.

Dunne: Did he show you any kind of paperwork about this business proposition?

Vignali: No, he did not.

Dunne: Did he have you sign anything to validate that you were giving him 20,000 dollars in cash?

Vignali: No, sir.

* * *

Dunne: And do you recall how much money was in your checking account at the time you had 20,000 dollars in a safe in your house?

Vignali: No, I never, I never kept much money . . . in the bank, I'm sorry.

Dunne: Well, when you have money in a bank you earn interest. Right?

Vignali: If it is in your savings account, yes.

Dunne: Are you earning any interest on 20,000 dollars in a safe in your house?

Vignali: No, but it is in my possession.⁶⁴

* * *

Dunne: In 1992 you file an income tax return where you declared your income was thirteen thousand nine hundred nine dollars? . . . Now the 20,000 dollars that you had in the closet at home, was that part of the thirteen thousand dollars that you made in 1992?

Vignali: That was part of the money that I had accumulated over my lifetime.

Dunne: Over your lifetime?

Vignali: Absolutely.

Dunne: Okay. And so all of your life savings you put in . . . the closet in the townhome.⁶⁵

⁶⁴ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 240, 243.

⁶⁵ *Id.* at 247-48.

Rather than refute the facts prosecutors had marshaled against him, Vignali argued that the co-conspirators who cooperated with law enforcement made “sweetheart” deals for leniency. In particular, Vignali charged that Dale Evans had falsely identified Vignali as his source of cocaine in California because he wanted to conceal the involvement of his family members and close associates in criminal activity.⁶⁶ Nonetheless, the testimony of the cooperating co-conspirators and law enforcement officers and the corroborating physical evidence was overwhelming. The combination of evidence admitted at trial showed beyond a reasonable doubt that Vignali supplied significant quantities of cocaine from California for distribution in Minnesota.

On December 12, 1994, Vignali was convicted of all the crimes for which he was indicted, except one count of using facilities in interstate commerce for the promotion of his drug operation.⁶⁷ All but one of the original thirty defendants in the drug conspiracy either pleaded guilty or were convicted.⁶⁸ At sentencing, the probation office for the federal district of Minnesota submitted to Judge David S. Doty a pre-sentence report. This report recommended an imprisonment range of 151 to 188 months for Vignali.⁶⁹ In determining the proper sentence under the federal sentencing guidelines, Judge Doty found that Vignali was, in fact, a willing participant in the shipment of cocaine to Minnesota on October 20, 1993.⁷⁰ Judge Doty also found that Vignali was accountable for distributing between five and fifteen kilograms of cocaine, rather than the fifteen to fifty kilograms suggested in the pre-sentence report.⁷¹ Vignali was sentenced to imprisonment for 175 months, about 15 years, on July 17, 1995.⁷² On January 20, 2001, President Clinton commuted Vignali’s sentence to time served.

B. Vignali’s Efforts to Obtain Executive Clemency

As described below, 55-year old Horacio Carlos Vignali, a successful Los Angeles-area businessman,⁷³ apparently used every tool at his disposal to see that his son would not fully serve out his prison sentence. When attempts to have his son released before sentencing and on appeal failed, Horacio, who cultivated political contacts over time through substantial campaign

⁶⁶ Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 232.

⁶⁷ Judgment in a Criminal Case, *U.S. v. Vignali* (D.Minn. July 17, 1995) (Exhibit 3).

⁶⁸ *Id.* Claude Phillips, 50, of Memphis, Tennessee, was acquitted of conspiring to distribute cocaine — the sole count against him in the superceding indictment. Also convicted was Todd Hopson, 23, of Apple Valley, Minnesota.

⁶⁹ *Id.*

⁷⁰ *Id.* Judge Doty also found that, in late October, co-defendant Todd Hopson traveled to California and co-defendant Dale Evans arranged for Hopson to buy additional quantities of cocaine from Vignali.

⁷¹ *Id.* Judge Doty did so by referring to the testimony of co-defendant Dale Evans. According to Evans, Vignali may have been the source of two packages of cocaine sent to Minnesota — one on October 21, 1993, and the other on October 28, 1993. Judge Doty noted that the second package was, in fact, seized by law enforcement authorities and found to have contained six kilograms of cocaine, and Evans testified at trial that the first package contained four kilograms of cocaine. However, Judge Doty found Evans’ testimony regarding the sale of additional quantities of cocaine by Vignali unpersuasive.

⁷² *Id.*

⁷³ Horacio Vignali, who immigrated to the United States in 1962, has owned several businesses, including parking lots, body shops, and real estate. See Richard Serrano and Stephen Braun, *Working the American System*, L.A. TIMES (L.A. TIMES Mag.) Apr. 29, 2001, at 10. Apparently, Horacio Vignali has been financially successful and owns a \$9 million home in Pacific Palisades that apparently once belonged to Sylvester Stallone. *Id.*

donations, fundraising activity,⁷⁴ and civic involvement, directed his considerable resources to a concerted effort to lobby President Clinton for an eleventh hour pardon of his son.

1. Initial Efforts to Reduce Vignali's Sentence

a. Contacts with Prosecutors in Minnesota

Efforts to reduce Carlos Vignali's sentence apparently started soon after Vignali was convicted. According to Assistant U.S. Attorney Andrew Dunne, who prosecuted Vignali in Minneapolis, Vignali's political associates exerted "a lot of influence" in Vignali's sentencing.⁷⁵ Dunne explained that he and the other prosecutors working on the case received periodic calls from state representatives in California on behalf of Carlos Vignali after the sentencing.⁷⁶ Characterizing some of the calls as "perhaps improper influence," Dunne recalled that "they wanted to know: Is there anything that could be done to help reduce the sentence?"⁷⁷ Denise Reilly, the lead government prosecutor in the Vignali case, likewise confirmed that they "would get calls from different people – politically placed" throughout the course of the case.⁷⁸ She characterized the input of those who called "odd," stating "I don't know how they do things in the rest of the country, but that isn't what we do in Minnesota."⁷⁹ Judge Reilly described the incoming calls as inquiring, "are you sure you know what you're doing?" and "are you sure that you have the right person?"⁸⁰ Judge Reilly believed that the calls came from political officials in Los Angeles.⁸¹

b. Vignali's Appeal

Carlos Vignali appealed his conviction immediately after the verdict. Vignali appealed to the Eighth Circuit Court of Appeals, claiming juror misconduct, witness perjury, improper jury instruction, failure to grant a severance, and improper exclusion of defense evidence. A unanimous appellate court upheld Vignali's conviction, dismissing Vignali's arguments with minimal discussion.⁸² In affirming the district court's ruling, the appellate court agreed that "there was considerable evidence of Vignali's guilt."⁸³ Vignali subsequently sought habeas relief, asserting ineffectiveness of counsel.⁸⁴ This claim was also denied.⁸⁵

⁷⁴ For example, Horacio Vignali has hosted several political fundraisers, including outdoor barbecue fundraisers (for which he became locally well known), and provided food for various political events. *Id.*

⁷⁵ Richard A. Serrano and Stephen Braun, *Drug Kingpin's Release Adds to Clemency Uproar*, L.A. TIMES, Feb. 11, 2001, at A1.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Telephone Interview with the Honorable Denise Reilly, Juvenile Court Judge, 4th Judicial District of Minnesota (Hennepin County) (May 11, 2001).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *U.S. v. Williams*, 97 F.3d 240 (8th Cir. 1996).

⁸³ *Id.* at 246.

⁸⁴ NARA Document Production at 2 (Report to the President on Proposed Denial of Executive Clemency for Carlos Anibal Vignali, Jr. (Jan. 12, 2001)) (Exhibit 4).

⁸⁵ *Id.*

c. Letters to the White House and Justice Department

Horacio Vignali was hard at work gathering political support for his son's cause even before filing his son's clemency petition. Vignali had a number of prominent California politicians write letters to the White House in 1996, requesting a "review" of Carlos Vignali's case. At least five similarly phrased letters were sent to the White House "Pardon Secretary" requesting an examination of the case.⁸⁶

The first letter, dated May 24, 1996, from California Assembly Member Antonio Villaraigosa, stated, "After reviewing Mr. Vignali's case, I am convinced that he has been falsely linked to a drug ring in Minneapolis, MN, and that his conviction is a product of 'guilt by association,' among other factors."⁸⁷ Villaraigosa noted that Carlos Vignali had no prior record and that Vignali's "military academy schooling adds to his superior resumé."⁸⁸ Villaraigosa was apparently unaware that Vignali both had a prior criminal record and had dropped out of military school.⁸⁹ Under those circumstances, Villaraigosa's characterization of Vignali's resumé as "superior" was, at best, hyperbole and, at worst, misleading. Villaraigosa has since admitted that he did not independently investigate the details of Carlos Vignali's case and regretted not having done so.⁹⁰ Villaraigosa stated, "I was convinced at the time . . . that his son was not a major player in this drug ring. I made a mistake in not investigating."⁹¹ Villaraigosa stated that he was moved by Horacio Vignali's emotional plea: "It was a conversation between fathers as much as anything. . . . He was very distraught."⁹²

On May 28, 1996, Los Angeles City Councilman Richard Alatorre wrote in support of Vignali:

It is difficult for me to understand why Mr. Vignali received such an exorbitant sentence. It has been pointed out that this may have been due to the fact that his case was grouped together with a much larger case involving the sale of drugs.

⁸⁶ There is no position of "Pardon Secretary" at the White House. It is not clear who received and reviewed these letters when they were sent to the White House in 1996. However, the letters were ultimately made part of the Vignali clemency file at the White House Counsel's Office years later in 2000.

⁸⁷ NARA Document Production (Letter from Antonio R. Villaraigosa, Assembly Member, Forty-Fifth District, California Legislative Assembly, to Pardon Secretary, the White House (May 24, 1996)) (Exhibit 5).

⁸⁸ *Id.*

⁸⁹ Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 130 (Exhibit 2).

⁹⁰ Mateo Gold, *Vignali Case Casts Shadow Over Mayor's Race*, L.A. TIMES, Feb. 28, 2001, at B1 ("I wrote that letter without talking to prosecutors on the other end.").

⁹¹ John Antczak, *L.A. Heads Retract Support for Pardon*, AP ONLINE, Feb. 13, 2001; *See also* Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at A22.

⁹² Matea Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at A22. It is widely believed that Villaraigosa's involvement in the Vignali matter cost him his election as mayor of Los Angeles to Robert Hahn. *See, e.g.,* Beth Barrett, *Villaraigosa's Refusal to Hit Back Cost Him — Rival's Attack Went Unanswered*, DAILY NEWS OF L.A., June 7, 2001, at N9.

Others contend that it may have been because of his Latino background, which I hope is not the case.⁹³

However, Alatorre was not fit to provide a character reference for Vignali or anyone else. Throughout his extensive career in Los Angeles politics, Alatorre was the subject of various public corruption investigations, recently pleaded guilty to federal tax evasion charges, and is himself a proven cocaine user.⁹⁴

⁹³ NARA Document Production (Letter from Richard Alatorre, Councilman, Fourteenth District, L.A. City Council, to Pardon Secretary, the White House (May 28, 1996)) (Exhibit 6).

⁹⁴ Department of Justice Press Release No. 01-062, *Former Los Angeles City Councilman Richard Alatorre Charged With Tax Evasion For Failing To Report Bribes; Defendant Agrees To Plead Guilty To Felony Offense*, U.S. Attorney's Office for the Central District of California, Apr. 3, 2001. As a result of Alatorre's failing to report bribes, he evaded the payment of at least \$12,970 in federal income tax. In addition to pleading guilty, Alatorre has agreed to file an amended 1996 federal income tax return and to pay any penalties and interest assessed by the Internal Revenue Service.

Less than a year after being elected to the Los Angeles City Council, Alatorre agreed to pay a record fine of more than \$140,000 for improperly financing his campaign for City Council with money he raised as a state lawmaker. Rich Connell and Robert J. Lopez, *Alatorre's Fall Belies Early Promise, Achievements*, L.A. TIMES, Jan. 17, 1999, at A1. In 1988, Alatorre was fined for attempting to steer a \$722,000 contract to The East Los Angeles Community Union ("TELACU"), a firm that was headed by a longtime friend. Earlier, TELACU had flown Alatorre to a meeting at Lake Tahoe and paid him a \$1,000 speaking fee.

When Alatorre was on the board of the Metropolitan Transportation Authority ("MTA"), which administers Los Angeles' multibillion-dollar subway and light rail system, Alatorre reportedly solicited contributions of more than \$500,000 from organizations with interests before the MTA and the City Council for the benefit of a children's charity he helped create. Rich Connell and Robert J. Lopez, *Alatorre's Fall Belies Early Promise, Achievements*, L.A. TIMES, Jan. 17, 1999, at A1; Robert J. Lopez and Rich Connell, *MTA Probes Charities Promoted by Alatorre*, L.A. TIMES, July 7, 1997, at A1. That charity exclusively hired Eventually Yours, an event-planning firm founded by Alatorre's third wife, Angie, paying the firm tens of thousands of dollars in fees. Ultimately, Alatorre was fined \$8,000 by state and local watchdog agencies for improperly intervening on behalf of the firm before a city licensing agency. That was the maximum fine allowed under state and local laws. Also, in the custody dispute described below, Alatorre conceded to receiving a \$13,200 loan (without a repayment plan) from TELACU. At that time, Alatorre was also supporting a TELACU team for a \$65 million MTA subway contract and a TELACU partnership for a \$2 million city development for a shopping center in his district.

The investigation of Eventually Yours broadened an earlier probe of how another firm that was ranked last in competing for a lucrative subway contract, but which Alatorre backed, came to be recommended for that contract. Robert J. Lopez and Rich Connell, *MTA Probes Charities Promoted by Alatorre*, L.A. TIMES, July 7, 1997, at A1. That controversy resulted in the resignation of MTA's executive director, who selected the team after it made a \$20,000 donation to a golf tournament benefiting a charity of which Alatorre was an honorary chairman.

Eventually Yours was also investigated by the California Attorney General's Office for failing to account for hundreds of thousands of dollars in charitable donations it helped raise. Robert J. Lopez and Rich Connell, *MTA Probes Charities Promoted by Alatorre*, L.A. TIMES, July 7, 1997, at A1. After repeated press inquiries for information regarding the firm's five-year failure to account for certain contributions, the firm's attorney stated that the firm's forte was in staging "spectacular" events — not in faithfully tending to administrative matters. In the course of its investigation, the State Attorney General's Office received an inquiry from State Senator Richard Polanco, generally well known to be an Alatorre ally. According to a State Justice Department official, Polanco stated that he was concerned about the pressure being brought to bear on the firm. The official recounted that Polanco said he knew the people associated with Eventually Yours to be upstanding and asked why they were targeted. In response, Polanco was told that, because the investigation was pending, he could be given no information about the matter. Robert J. Lopez and Rich Connell, *MTA Probes Charities Promoted by Alatorre*, L.A. TIMES, July 7, 1997, at A1.

In the course of a child custody dispute regarding his niece in which Alatorre's competency to care for the girl was in controversy, Superior Court Judge Henry W. Shatford found that "Richard Alatorre's credibility has been totally shredded as to his profound declaration [that] he has been clean from the use of cocaine." Robert J. Lopez

On July 22, 1996, State Senator Richard Polanco requested that the White House “carefully review” the Vignali case and stated that Vignali had “no prior criminal record.”⁹⁵ On July 26, 1996, Archbishop Roger Mahony, Cardinal of the Archdiocese of Los Angeles, wrote to “add [his] voice recommending that all of the process, the law, and the facts in this case be reviewed fully to determine if justice has been achieved[.]”⁹⁶ Finally, Congressman Esteban Torres wrote to Attorney General Reno complaining that Vignali was not “individually tried before a jury of his peers” and asking that the Attorney General “carefully review” Vignali’s case.⁹⁷

Even these initial stages of lobbying for Carlos Vignali involved a significant amount of misinformation. For example, Villaraigosa, Alatorre, Polanco, and Torres all claimed in their letters that Carlos Vignali had no prior criminal record. In fact, Vignali had two prior criminal convictions for fighting in a public place and vandalism and two prior arrests for reckless driving and inflicting corporal injury on a cohabitant.⁹⁸ It is unclear whether the political figures writing on Vignali’s behalf were aware of Vignali’s criminal history and chose to disregard it or were misinformed by those lobbying on Vignali’s behalf.

Los Angeles City Councilman Richard Alatorre’s claims of racial prejudice were similarly baseless. Alatorre claimed that “others contend” Vignali’s sentence was the result of racial prejudice. However, the Committee is unaware of any allegations, other than Alatorre’s own letter, that Vignali received unfair treatment because of his ethnic background. In fact, Vignali’s attorney argued at trial that Vignali was innocent because he was Hispanic and, therefore, could not have been part of the “black drug dealing network” of his codefendants.

and Rich Connell, *Judge Says Test Shows Alatorre Is Using Cocaine*, L.A. TIMES, Sept. 30, 1998, at A1. Judge Shatford arrived at that finding after Alatorre failed a surprise courthouse drug test. The judge ordered the test after Alatorre repeatedly denied using cocaine with an individual on whose behalf he aggressively helped obtain government business. That individual was a waste hauler and demolition specialist who pleaded guilty to possessing and intending to distribute heroin. That individual has publicly stated that Alatorre has written him letters of reference for public contracts, “attesting to my character.” Alatorre publicly explained that the white powder his former executive secretary testified to having seen on his nostrils and clothes upon his return from business meetings might have been dandruff, denture powder, or Doritos. Alatorre’s former secretary also testified that, following Alatorre’s divorce from his second wife when Alatorre was facing financial problems, he began mysteriously producing wads of \$100 bills. The secretary claimed that some of the money came after meetings with businessmen and other supporters. After reviewing financial records involving associates of Alatorre with government business interests, Judge Shatford noted that Alatorre had “questionable conflict of interest financial dealings as a city councilman.” *Id.* Ultimately, Judge Shatford stripped Alatorre of guardianship of his niece and barred him from visiting with her until he successfully completed a drug detoxification program.

⁹⁵ NARA Document Production (Letter from Richard Polanco, State Senator, Twenty-Second District, California Legislature, to Pardon Secretary, the White House (July 22, 1996)) (Exhibit 7).

⁹⁶ NARA Document Production (Letter from Archbishop Roger Mahony, Cardinal of the Archdiocese of Los Angeles, to Pardon Secretary, the White House (July 26, 1996)) (Exhibit 8).

⁹⁷ NARA Document Production (Letter from Esteban E. Torres, Member of Congress, U.S. House of Representatives, to Janet Reno, U.S. Attorney General, Department of Justice (July 3, 1996)) (Exhibit 9).

Congressman Torres also wrote to the warden of Vignali’s prison in Colorado, asking that Vignali be transferred to a prison closer to his family in California. Stephen Braun, *et. al*, *L.A. Politicians Urged Pardon of Cocaine Dealer*, L.A. TIMES, Feb. 12, 2001, at A1.

⁹⁸ Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 117, 118 (Exhibit 2).

Indeed, Vignali's black codefendants appealed their convictions on the basis of the potentially prejudicial statements by Vignali's lawyer.⁹⁹

2. Vignali's Clemency Petition

After Carlos Vignali's appeal failed, the Vignali family began to pursue a grant of executive clemency to get him out of prison. Horacio Vignali initially reached out to Danny Davis, Carlos' criminal defense lawyer, to assist with efforts to obtain presidential clemency for him.¹⁰⁰ However, Davis, who represented Carlos Vignali at trial in Minnesota, declined because he calculated the probability of obtaining clemency for Carlos as "a snowball in Hades."¹⁰¹ Sometime thereafter, Horacio Vignali himself embarked on a campaign to obtain a presidential grant of clemency for his son.¹⁰²

Carlos Vignali's clemency petition was filed with the Justice Department on August 24, 1998. Vignali's brief petition laid out his reasons for seeking a commutation:

Vignali loaned \$25,000 to a friend, which were [sic] interpreted through slang taped telephone conversations to involve the purchase of drugs. No drugs were seized from Vignali, and he was convicted solely on the testimony of a codefendant who received leniency. The taped conversations did not mention either drugs or money but were interpreted to have those subjects. Vignali was tried in Minnesota where he had never been or had any significant contacts with.

* * *

The sentence of 175 months for a 21 year old, first time, nonviolent offender with no significant prior record is unwarranted. Based solely on a \$25,000 loan to a friend, falsely interpreted telephone recordings, and a codefendant's highly rewarded testimony, the punishment does not fit the crime as proved. The concept of holding minor players responsible for any and all drugs of a conspiracy, irregardless of whether that minor play [sic] had any knowledge or nexus with those drugs, undermines the concept of fairness. No drugs were introduced at trial as to Vignali, who never visited Minneapolis where the case was tried, yet he was held responsible for the drugs involved in a 30 defendant conspiracy, when he knew, at best, two people. By the end of 1998, Vignali will have served, with good time, almost five years, which is the mandatory minimum for the drugs which could have been bought with his loan.¹⁰³

The Vignali clemency petition was a poorly drafted rehash of issues that had been thoroughly addressed at trial and on appeal. Unlike most successful clemency petitions, Vignali's petition continued to maintain actual innocence. Yet, it failed to present any new facts suggesting

⁹⁹ *U.S. v. Williams*, 97 F.3d 240, 244 (8th Cir. 1996).

¹⁰⁰ Richard A. Serrano and Stephen Braun, *Drug Kingpin's Release Adds to Clemency Uproar*, L.A. TIMES, Feb. 11, 2001.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ NARA Document Production (Petition for Commutation of Sentence) (Exhibit 10).

Vignali was indeed innocent. These flaws were easily recognized when the petition was reviewed by individuals familiar with the Vignali case. In short, the pardon petition made a number of misleading statements, including the following:

“Vignali loaned \$25,000 to a friend, which were [sic] interpreted through slang taped [sic] telephone conversations to involve the purchase of drugs.” Vignali’s claim that he was simply engaged in a business deal—not a drug deal—was thoroughly disproved at trial. As described above, literally dozens of pieces of evidence pointed to Vignali’s involvement in a drug deal, including the testimony of his co-conspirators, wiretap evidence, and the actual proceeds of the drug deal. In the course of reviewing Vignali’s clemency application, the White House was apparently not persuaded by Vignali’s explanation at trial. On the last page of a copy of the report from the Justice Department’s Pardon Attorney to President Clinton declining to recommend Vignali’s application for clemency, a handwritten note by a White House staffer reads “Need to XC for Bruce [Lindsey]. Definitely isn’t simply making a loan[.]”¹⁰⁴

“[Vignali] was convicted solely on the testimony of a codefendant who received leniency.” As described above, the testimony of several witnesses proved Vignali’s role in the conspiracy. The testimony of those witnesses was consistent with and independently corroborated by wiretap interceptions of communications among the co-conspirators, search warrant evidence obtained from lawful searches of the co-defendant’s homes and drug stash houses, and visual police surveillance. Thus, as the Eighth Circuit noted on direct appeal, Vignali’s conviction was supported by considerable evidence.

Agreements with defendants for cooperation in exchange for leniency at sentencing are a widely-used tool used by prosecutors to obtain evidence in criminal cases. Such agreements are contemplated by the Federal Sentencing Guidelines as a basis for downward departure from the applicable guideline imprisonment range. Moreover, Vignali’s sentence was commuted to a term shorter than even those of defendants who actually cooperated with the Government. This makes the clemency decision particularly egregious.

“Vignali was tried in Minnesota where he had never been or had any significant contacts with.” This is a red herring. Physical presence within the district where a criminal defendant is to be tried has never been held to be a requirement in determining venue. It is well-settled that the appropriate focus for determining venue is the place of the crime and that the inquiry into the place of the crime may yield more than one appropriate venue or even a venue in which the defendant has never set foot.¹⁰⁵ In this case, Vignali was charged with, among other things, aiding and abetting the distribution of cocaine using facilities in interstate commerce and conspiring to distribute cocaine. As described above, the evidence that Vignali facilitated the interstate sale of cocaine and conspired in Los Angeles to distribute cocaine in Minnesota included testimony of cooperating co-defendants (which was corroborated by wiretapped communications among the co-conspirators), search warrant evidence, and visual police surveillance. That evidence amply showed an interdependence between Vignali and the

¹⁰⁴ NARA Document Production (Report to the President on Proposed Denial of Executive Clemency for Carlos Anibal Vignali, Jr.) at 4 (Exhibit 4) (handwritten note on last page of Report).

¹⁰⁵ *U.S. v. Cabrales*, 524 U.S. 1 (1998); *U.S. v. Stewart*, 256 F.3d 231 (4th Cir. 2001).

Minnesota-area distributors. Therefore, under prevailing case law, venue in the U.S. District of Minnesota was clearly proper.

“The sentence of 175 months for a 21-year old, first time, nonviolent offender with no prior record is unwarranted.” First, Vignali was not a “first time, nonviolent offender.” Vignali’s counsel, Danny Davis, similarly misrepresented Vignali’s criminal record when he told the jury in closing argument that Vignali had “[n]o prior criminal record” and cited “his unblemished past.”¹⁰⁶ Hugh Rodham, who was retained to lobby the White House on Vignali’s behalf, likewise misrepresented Vignali’s criminal record to the White House Counsel’s Office. In fact, Vignali had two prior convictions and arrests. He was convicted in 1989 for fighting in a public place and received a \$183 fine. He was also convicted of vandalism to which he pleaded no contest and received 12 months probation and was ordered to pay restitution and complete 82 hours of community service work. In the course of his arrest for vandalism, Vignali stated that he was associated with “The 87th Street West Side Boys” in Los Angeles.¹⁰⁷ According to police records, Vignali also admitted that he was a member of the West Covina Mob.¹⁰⁸ In 1988, Vignali was arrested for reckless driving.¹⁰⁹ Finally, Vignali was arrested in 1990 for inflicting corporal injury on a spouse/cohabitant, but that case was dismissed. Second, Vignali’s sentence reflected the gravity of his participation in a large-scale conspiracy in which he served as the source of cocaine. It also reflected both Vignali’s obstruction of justice in lying about his actual role in the conspiracy before a judicial tribunal and his obdurate refusal to accept any responsibility for his crimes.

“No drugs were introduced at trial as to Vignali[.]” Although this assertion appears to be true from the trial record, the implication that Vignali’s verdict is therefore unsupported by sufficient evidence is misleading. In fact, the appellate court noted that Vignali’s verdict was well-supported by the evidence admitted at trial. In sentencing Vignali under the federal sentencing guidelines, the trial judge determined how much cocaine was attributable to Vignali. Because the parcels of cocaine attributable to Vignali had long since been distributed or consumed, the judge looked to the testimony of co-defendant Dale Evans. According to Evans, Vignali was the source of two packages of cocaine sent to Minnesota, one on October 21, 1993, and the other on or about October 28, 1993. The judge found that Evans’ testimony as to the amount of cocaine in the second package was corroborated by the postal inspector’s seizure of the parcel and finding that it contained six kilograms of cocaine. In contrast, the judge found that Evans’ uncorroborated testimony as to additional quantities of cocaine was not reliable. Nonetheless, he found that Evans’ testimony was credible so as to establish that Vignali knowingly participated in distributing cocaine on more than one occasion. Given the strength of the available evidence, the judge’s determination that between five and fifteen kilograms of cocaine were attributable to Vignali did not require the physical presence of those parcels in court.

“[Vignali] was held responsible for the drugs involved in a 30 defendant [sic] conspiracy, when he knew, at best, two people.” The evidence admitted at trial against Vignali

¹⁰⁶ See Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 5, 1994) at 229-30.

¹⁰⁷ Presentence Investigation, *U.S. v. Vignali* (D. Minn. 1994) at para. 117, 118 (Exhibit 2).

¹⁰⁸ *Id.* at para. 117-18.

¹⁰⁹ *Id.*

showed that he was a member of a large-scale drug conspiracy and facilitated the distribution of cocaine in Minnesota by supplying Dale Evans, Gerald Williams, and Todd Hopson with significant quantities of cocaine from Los Angeles. As such, Evans' association with the other members of the conspiracy was irrelevant to any issue material to the government's case.

The facts prove that every substantive assertion in Vignali's commutation petition was false and misleading. The petition could have been easily refuted by anyone with a basic familiarity with Vignali's underlying conviction. The question then is how the White House came to believe that Carlos Vignali deserved an executive grant of clemency.

3. Supporters of Vignali's Clemency Petition

In 2000, a number of prominent California politicians wrote to the White House in support of Vignali's release. Some were the same individuals who wrote to the White House on Vignali's behalf four years earlier. In addition, a number of prominent Californians called the White House and the Justice Department to further press their arguments. The distortions of fact in the Vignali clemency petition were repeated throughout the campaign to win Vignali's release.

a. Letters of Support from Prominent California Politicians

It appears that from the earliest stages of his efforts to obtain a commutation for his son, Horacio Vignali attempted to enlist the support of various state and federal politicians and other prominent Californians. By the time that the White House reviewed Vignali's clemency petition in January 2001, seven different political figures had drafted letters to the White House or Justice Department in support of Carlos Vignali's petition. Horacio Vignali apparently used a number of different tactics to convince these individuals to sign onto his cause.

Perhaps most significantly, Horacio Vignali became a major political contributor to top federal, state, and local officeholders after his son was convicted in 1994.¹¹⁰ This made him a well-known figure in the Los Angeles political community. Horacio Vignali contributed reportedly more than \$160,000 to state and federal office holders after his son was incarcerated.¹¹¹ He reportedly gave \$25,000 to former Governor Pete Wilson in 1994 and held a fundraiser for Governor Gray Davis in 2000 that raised \$75,000, including \$25,900 from himself.¹¹² Horacio Vignali also reportedly gave \$23,500 to Davis before he became Governor¹¹³ and \$35,000 to the Democratic Party.¹¹⁴ In addition, he made large contributions to a number of Los Angeles city and county officials and held fundraisers and other political events

¹¹⁰ *Did politics sway Clinton to free drug dealer*, L.A. TIMES, Feb. 13, 2001, at A8.

¹¹¹ Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at 22; Rob Morse, *Still Have Bill to Kick Around*, S.F. CHRON., Feb. 14, 2001, at A2; Dominic Berbeo, *Hertzberg Had part in Pardon Flap*, DAILY NEWS OF L.A. (Valley Edition) Feb. 16, 2001, at N1.

¹¹² Ted Rohrlich and Robert Lopez, *Convict's Father a Wealthy, Well-Liked Mediator on the L.A. Political Scene; Profile: Horacio Carlos Vignali Has Donated Thousands Across Party Lines. He Puts Emphasis on Strengthening the Latino Community, Aides Say*, L.A. TIMES, Feb. 13, 2001, at A23.

¹¹³ *Id.*

¹¹⁴ Dominic Berbeo, *Hertzberg Had Part in Pardon Flap*, DAILY NEWS OF L.A. (Valley Edition) Feb. 16, 2001, at N1.

at his Los Angeles estate. While these contributions clearly gave Vignali the access he needed to make his case to key political figures, it is less clear why his case was received so positively. Most of the politicians who endorsed Carlos Vignali's clemency petition now admit that their actions were a mistake and claim that they took the positions they did out of a misplaced sympathy for a father who was deeply hurt by his son's imprisonment.

i. Congressman Xavier Becerra

Congressman Becerra conceded that the Vignalis were not members of his constituency but that Horacio had been a friend and contributor of his for five years.¹¹⁵ The Vignalis have donated at least \$11,000 to Becerra's political action committee, Leadership of Today and Tomorrow, between 1998 and 2001,¹¹⁶ \$2,475 to Becerra's congressional campaigns, and \$3,500 to Becerra for the mayor's race.¹¹⁷

Congressman Becerra has explained to the press that he was initially approached by Horacio Vignali and Congressman Esteban Torres, who wanted to see if Becerra could assist the Vignali family.¹¹⁸ After Horacio Vignali asked for Becerra's help, Becerra called the U.S. Attorney for the Central District of California, Alejandro Mayorkas.¹¹⁹ Becerra asked Mayorkas about the case and whether a commutation could be granted. Becerra recalls that Mayorkas looked into the case and called him back a few days later, telling him that the conviction was justified but that the sentence was too harsh.¹²⁰

Becerra also called Pardon Attorney Roger Adams about the Vignali case.¹²¹ Becerra apparently called Adams on October 13, 1998, asking about the procedures followed by the Office of the Pardon Attorney. On October 14, 1998, Adams sent Becerra a lengthy letter explaining the conditions under which the Office of the Pardon Attorney considered cases for commutation. Adams noted that "commutation of sentence is usually recommended only in exceptional circumstances, such as unwarranted disparity or severity of sentence, the rendering of an important service to the government not taken into account at sentencing, or terminal illness. . . . Since President Clinton has been in office, he has granted clemency only in three commutation cases."¹²²

¹¹⁵ *Id.*

¹¹⁶ *Id.* Dominic Berbeo, *Hertzberg Had Part in Pardon Flap*, DAILY NEWS OF L.A. (Valley Edition) Feb. 16, 2001, at N1.

¹¹⁷ *Id.* Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at 22.

¹¹⁸ *Id.*

¹¹⁹ Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1.

¹²⁰ Richard Serrano and Stephen Braun, *Working the American System*, L.A. TIMES, Apr. 29, 2001, at A1.

¹²¹ Interview with Roger Adams, Pardon Attorney, Department of Justice (Feb. 27, 2001). Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at A22.

¹²² Justice Department Document Production Mayorkas 00029-30 (Letter from Roger Adams, Pardon Attorney, Department of Justice, to Xavier Becerra, Member of Congress, U.S. House of Representatives (Oct. 14, 1998)) (Exhibit 11).

Becerra then drafted a letter to the White House in support of Vignali. On November 21, 2000, Becerra wrote the following to President Clinton:

[I write to] add my voice to those recommending a full evaluation of this case to determine if justice has been achieved in the case of Mr. Vignali. . . . In the interest of redeeming the life of a young man, I respectfully urge you to weigh a few factors in Mr. Vignali's favor. Prior to Mr. Vignali's conviction, he had no criminal record whatsoever. Although convicted of drug possession and the illegal sale of drug narcotics, his parents remain highly disturbed by a variety of factors in play at Carlos' trial and believe that when Carlos loaned money to a friend he unwittingly became connected with the convicted narcotics ring. It is my understanding that neither drugs nor drug money was found in his possession.¹²³

After the commutation, Becerra explained his actions as follows: "Knowing that justice is not yet blind to color in America and with time running out for the review of the Vignali case, I added my voice to that of other community leaders . . . asking for a review of the case."¹²⁴

Unlike others, Becerra has not apologized for his role in the Vignali case. Rather, he has steadfastly maintained that he did nothing wrong and did not even explicitly support Vignali's clemency grant. Becerra stated that he wrote the letters to urge the White House to make sure that justice had been served in the Vignali case.¹²⁵ He has said that he never specifically asked President Clinton to commute Carlos Vignali's sentence, despite the fact that he wrote about the case and even called the White House on January 19, 2001, to see where the case stood.¹²⁶

ii. Congressman Esteban Torres

In addition to his 1996 letters to the Justice Department and the warden of Vignali's prison, Congressman Torres wrote to the White House in support of Vignali's clemency request. In an August 4, 1998, letter, Torres requested President Clinton's "careful review and immediate consideration of approval of his petition."¹²⁷ It is unclear why Torres wrote on Vignali's behalf.

Congressman Torres' son-in-law, James Casso, apparently became aware of the Vignali case while working as Congressman Torres' district director. More importantly, after Congressman Torres' retirement in 1999, Casso went into private practice as an attorney and

¹²³ NARA Document Production (Letter from Xavier Becerra, Member of Congress, U.S. House of Representatives, to President William J. Clinton (Nov. 21, 2000)) (Exhibit 12).

¹²⁴ Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at A22.

¹²⁵ Richard Serrano and Stephen Braun, *Working the System*, L.A. TIMES, Apr. 29, 2001, at A1.

¹²⁶ *Id.* Congressman Becerra's position should be contrasted with that of former Associate White House Counsel Meredith Cabe, who characterized the congressman's involvement as "advocacy." Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

¹²⁷ NARA Document Production (Letter from Esteban E. Torres, Member of Congress, U.S. House of Representatives, to President William J. Clinton (Aug. 4, 1998)) (Exhibit 13).

apparently maintained his contacts with the Vignalis. In that capacity, Casso apparently played a significant role in introducing the Vignalis to Hugh Rodham. Unfortunately, Casso has declined to be interviewed by the Committee about this matter.

iii. State Senator Richard Polanco

State Senator Richard Polanco, who wrote to the White House “Pardon Secretary” in 1996, wrote to the President once again in 2000, specifically requesting a presidential grant of clemency for Vignali. Polanco, who received \$20,000 in political contributions from Horacio Vignali throughout his career,¹²⁸ sent his letter to the White House on December 6, 2000. At the time, Polanco was the Chair of the Latino Legislative Caucus and purported to write on behalf of the Caucus:

The Caucus respectfully requests you commute Mr. Vignali’s sentence and that he be released immediately. We believe that Mr. Vignali was convicted despite the fact that the criminal investigation did not reveal any guns, drugs, or illegal money in Mr. Vignali’s possession. Mr. Vignali was a 22-year-old investor and did not have any contacts demonstrating his involvement in the sale or purchase of drugs.

* * *

Given the facts of the case and Mr. Vignali’s conduct during incarceration, the Caucus has investigated the impact of Mr. Vignali’s release. We are convinced that Mr. Vignali will return to his family in southern California. Mr. Vignali’s family is a loving, embracing family and is committed to supporting him.¹²⁹

It is not clear whether Polanco obtained the approval of all 23 members of the California Latino Legislative Caucus before he wrote the President on their behalf. However, it is clear that Senator Polanco spread misleading information about Carlos Vignali in his letter. Rather than being an investor in a legitimate business enterprise, as suggested by Polanco, Vignali was convicted by a jury of providing large amounts of cocaine for distribution. His conviction was upheld by an appellate court. As for the lack of contacts demonstrating his involvement in the sale of drugs, as claimed by Polanco, Vignali’s own words, captured on government wiretaps, show that he was part of a cocaine distribution conspiracy. Also of interest is Senator Polanco’s claim that the Latino caucus had “investigated” the impact of Vignali’s release. Polanco has not made it clear what steps he took to investigate the impact of the commutation. Given the inaccuracies in Polanco’s letter, the Caucus’ investigation appears to have been incomplete or, more likely, nonexistent.

¹²⁸ Antonio Olivo and Tina Daunt, *Speculation Swirls Over Polanco Exit From Race*, L.A. TIMES, Mar. 11, 2001, at B1.

¹²⁹ NARA Document Production (Letter from Senator Richard G. Polanco, Senate Majority Leader, California State Senate, to President William J. Clinton (Dec. 6, 2000)) (Exhibit 16).

iv. Los Angeles County Supervisor Gloria Molina

Unlike many other individuals who supported Vignali's bid for clemency, Los Angeles County Supervisor Gloria Molina did not receive political contributions from Horacio Vignali. Rather, she came to know Horacio Vignali through her husband, Ron Martinez, a Los Angeles affirmative action consultant.¹³⁰ After receiving a "constant barrage of requests" from Horacio to support his son's bid for clemency, Molina agreed to write such a letter.¹³¹ In her December 20, 2000, letter, Molina stated the following:

While I usually do not write letters in support of individuals I do not know personally, I am making this request because I do know Mr. Vignali's family and have reviewed his case carefully. What I have learned is that Mr. Vignali is a young man who made a mistake in his life and is immensely remorseful and has demonstrated a genuine interest to re-join the community."¹³²

Molina also noted Vignali's good record in prison, where he excelled in his work details and received a GED.¹³³ It is unclear how Molina came to the understanding that Carlos Vignali was "immensely remorseful" for his actions. To the contrary, Carlos and Horacio Vignali have steadily maintained Carlos' innocence ever since his arrest in 1994, and Carlos, to date, has never cooperated with authorities by revealing the identities of his narcotics sources.

Molina's ignorance of the most basic aspect of the Vignali case – whether Vignali claimed to be innocent or guilty of the charges – seriously undermines her claim to have "reviewed his case carefully." It has also been reported that Molina shared her draft letter of support with Horacio Vignali before it was provided to the White House.¹³⁴ Therefore, Horacio Vignali was aware of the inaccuracies in the letter and still allowed it to be presented to the White House. While Molina told Horacio Vignali that her letter "probably would do no good,"¹³⁵ it was provided to Bruce Lindsey the day after it was written. Hugh Rodham faxed the Molina letter to Dawn Woollen, Bruce Lindsey's assistant, on December 21, 2000, with a notation stating, "Dawn, enclosed please find a copy of the letter we discussed."¹³⁶

Molina has not explicitly renounced her representations in the Vignali case. She has, however, said that she will not write any more letters like her Vignali letter because prosecutors and judges know the facts better than political figures like herself.¹³⁷

¹³⁰ Ted Rohrlich, *et. al, Molina, Hertzberg Wrote Letters for Convict's Pardon*, L.A. TIMES, Feb. 16, 2001, at B1.

¹³¹ *Id.*

¹³² NARA Document Production (Letter from Gloria Molina, Supervisor, 1st District, Board of Supervisors, County of Los Angeles, to President William J. Clinton (Dec. 20, 2001)) (Exhibit 18) (cover sheet reflecting transmission from Rodham to Lindsey, attached).

¹³³ *Id.*

¹³⁴ Richard Serrano and Stephen Braun, *Clinton Brother-in-Law Was Paid \$400,000 To Help Win Clemencies*, L.A. TIMES, Feb. 22, 2001, at A1.

¹³⁵ Ted Rohrlich, *et. al, Molina, Hertzberg Wrote Letters for Convict's Pardon*, L.A. TIMES, Feb. 16, 2001, at B1.

¹³⁶ NARA Document Production (Fax Cover Sheet, Dec. 21, 2000) (Exhibit 18) (all capitalization omitted).

¹³⁷ Rene Sanchez, *Powerful Supporters Retreat On Pardon*, WASH. POST, Feb. 24, 2001, at A6.

v. Los Angeles City Councilmember Mike Hernandez

Horacio Vignali cultivated a close relationship with Los Angeles City Councilmember Mike Hernandez, beginning with Hernandez's 1993 campaign, to which Vignali contributed \$2,500. Vignali also hosted a day-long retreat at his estate for Hernandez and his staff. On December 4, 2000, Hernandez wrote to the President, asking him to "strongly consider commuting the sentence of Carlos A. Vignali[,] Jr."¹³⁸ Hernandez argued, "Although convicted, you will hopefully note, that no evidence was presented that Mr. Vignali had any involvement with illegal narcotics prior to the last three months leading up to his arrest."¹³⁹ Hernandez also noted Vignali's accomplishments in prison, including receiving his GED and being named the prison's "Student of the Year."¹⁴⁰

Hernandez's arguments were completely irrelevant as to Vignali's suitability for a commutation. Even assuming Hernandez was correct that Vignali was a large-scale drug dealer for only three months, that hardly seems to be a powerful argument in favor of executive clemency. Moreover, Carlos Vignali was suspected by law enforcement authorities of trafficking narcotics well before he was actually arrested.¹⁴¹

The extent to which the White House relied on Hernandez's letter is unclear. It is certain, though, that Hernandez was a questionable source for any kind of character reference, especially one involving drug charges. In August 21, 1997, Hernandez was arrested and charged with one felony count of cocaine possession.¹⁴² He subsequently posted \$10,000 bond and checked himself into a drug-treatment hospital.¹⁴³ Hernandez ultimately pleaded guilty and entered a drug diversionary program, which allowed him to complete his rehabilitation and, upon successful completion, avoid the felony conviction.¹⁴⁴

vi. Cardinal Roger Mahony

Cardinal Roger Mahony, the Archbishop of Los Angeles, also wrote in support of Vignali. Given that the Cardinal was not a political figure, his letter may have carried particular weight with the White House. However, Cardinal Mahony's December 11, 2000, letter, like those of the political figures who supported the Vignali clemency, was misleading. Mahony stated that "prior to [Vignali's] conviction, he had no criminal record or arrests."¹⁴⁵ As described above, this claim was false. Cardinal Mahony also stated that there were "mitigating factors" in the Vignali case, such as the fact that "neither drugs nor drug money was found in Carlos Vignali

¹³⁸ NARA Document Production (Letter from Michael Hernandez, Councilman, First Council District, City of Los Angeles, to President William J. Clinton (Dec. 4, 2000)) (Exhibit 17).

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ See *infra*, section 4.a, *California Law Enforcement and Political Officials Supported Vignali's Clemency Petition Despite Serious Allegations Against Horacio and Carlos Vignali — There Were Extensive Allegations of Drug Trafficking Against Horacio Vignali and Carlos Vignali*.

¹⁴² Beth Shuster, *Back From the Bottom*, L.A. TIMES MAG., Feb. 6, 2000, at 10.

¹⁴³ Michael Fleeman, *He Just Said Yes — An interview with L.A. City Councilman Mike Hernandez*, L.A. TIMES MAG., Jan. 1998.

¹⁴⁴ *Id.*

¹⁴⁵ NARA Document Production (Letter from Cardinal Roger Mahony, Archbishop of Los Angeles, to President William J. Clinton (Dec. 11, 2000)) (Exhibit 19).

Jr.'s possession.”¹⁴⁶ Cardinal Mahony's recitation of these irrelevant facts gives the impression that there was no evidence linking Vignali to narcotics trafficking. To the contrary, Vignali's fellow drug dealers testified against him, and his voice was captured on intercepted telephone conversations, discussing the shipment of cocaine to Minnesota.

The Cardinal has issued a statement accepting some responsibility for his actions in the Vignali case. In particular, he claimed, “The purpose of the letter was to seek a further review of the facts, the law and the processes used in his case. I made it clear that I was incapable of making a judgment about his guilt or innocence.”¹⁴⁷ However, the Cardinal's letter did no such thing and even concluded that “the granting of clemency to Carlos Vignali, Jr. is worthy of your consideration. His relatives, a very respected, active and well-known Latino family, are committed to assist Carlos, Jr. to again become a contributing member of society.” After the public learned of Cardinal Mahony's role in the Vignali case, the Cardinal conceded, “Regardless of the merits of the case, I made a serious mistake in writing to the president and I broke my decades-long practice of never sending a letter on behalf of any person whom I did not know personally. I apologize for not following my own principles in this matter.”¹⁴⁸

b. Support from Los Angeles County Sheriff Lee Baca

The White House has cited the support of Los Angeles County Sheriff Lee Baca, along with the support of U.S. Attorney Alejandro Mayorkas, as being instrumental to the President's decision to grant clemency to Carlos Vignali. However, Baca has publicly claimed that he did not support the grant of clemency for Vignali but, rather, believed that he should serve out his sentence.¹⁴⁹ Yet, when Baca's actions in the Vignali case are carefully examined, it is clear that he was close to Horacio Vignali and took a number of actions that could be seen by the White House as supporting a grant of clemency for Carlos Vignali. In light of these facts, it is troubling that Baca has refused to acknowledge the effect of his actions in the Vignali matter.

i. Sheriff Baca's Relationship with the Vignalis

Sheriff Baca met Horacio Vignali in 1991 through “Latinos for Riordan,” a group which supported the election of Richard Riordan as Mayor of Los Angeles.¹⁵⁰ Beginning in 1993, Baca and Horacio Vignali began having one-on-one contacts, including lunches and other social meetings.¹⁵¹ Over the course of the years that followed, Baca became friends with Horacio Vignali and his wife, Luz, and even visited the Vignali home on five or six occasions.¹⁵² Vignali became a major supporter of Baca. Vignali contributed \$11,000 to Baca's campaigns for Sheriff

¹⁴⁶ *Id.*

¹⁴⁷ Mateo Gold and Larry B. Stammer, *2 City Leaders Say They Regret Helping Dealer; Clemency: Cardinal Mahony and Politician Villaraigosa Say They Shouldn't Have Written on Behalf of a Cocaine Convict They Had Never Even Met*, L.A. TIMES, Feb. 13, 2001, at A22.

¹⁴⁸ *Id.*

¹⁴⁹ Beth Shuster, *Baca Admits Call, Not Advocacy on Felon's Clemency*, L.A. TIMES, Feb. 23, 2001, at A1; Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁵⁰ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁵¹ *Id.*

¹⁵² *Id.*

between 1994 and 2001.¹⁵³ Vignali also hosted three fundraisers for Baca at the C&H Body Shop, each of which raised, according to Baca, between \$60,000 and \$70,000 for his campaign.¹⁵⁴

Baca first learned of Carlos Vignali's trouble with the law through his own deputies. In 1994, detectives from his narcotics bureau went to the C&H Body Shop to arrest Carlos Vignali.¹⁵⁵ Vignali had already been indicted in Minnesota, and detectives had just been able to identify the person previously known as "C-Low" on surveillance tapes as Carlos Vignali. When the detectives went to the C&H Body Shop, Horacio told them that Carlos Vignali was not there.¹⁵⁶ After the detectives left, Horacio called Baca to ask why the detectives had been there and why they were looking for his son.¹⁵⁷ Baca, who at the time was Chief of Field Operations for Region II of the Los Angeles County Sheriff's Office,¹⁵⁸ told Horacio that he would look into the matter.¹⁵⁹ Baca called the detective who had been by the body shop and asked him why he was looking for Carlos Vignali.¹⁶⁰ The detective explained the matter to Baca, and Baca called Horacio back and explained that he should have his son meet with detectives at the body shop. Baca made a point of not informing Horacio Vignali why investigators were looking for Carlos and simply told Horacio that he should have his son show up at the body shop to speak to investigators.¹⁶¹ Shortly thereafter, Carlos did show up at the body shop, and he was arrested.

After Carlos Vignali's arrest, Baca's information about the Vignali case came from Horacio Vignali. Baca learned of Carlos' conviction, and Horacio often mentioned his son's plight to Baca when they spoke.¹⁶² Horacio Vignali told Baca that he believed his son was innocent and that he was spending significant sums in legal fees to appeal the conviction. Baca claims that he consistently believed that Carlos Vignali was guilty of the charges against him. He even claims to have had a heated discussion with Horacio Vignali where he told him that he believed that Carlos was guilty and responsible for his own predicament.¹⁶³

Despite Sheriff Baca's apparent lack of sympathy for Carlos' situation, Horacio Vignali continued to mention Carlos to Baca. In 1996, Horacio informed Baca that, because he was afraid of flying, he was having difficulty visiting his son in prison in Colorado.¹⁶⁴ He asked for Baca's help in having Carlos moved to a prison closer to the Vignali's home in Los Angeles. On November 1, 1996, Baca wrote a letter to Vignali's probation officer. In that letter, Baca argued that more frequent contact between the Vignali family and Carlos would help the family and Carlos deal with his imprisonment. Baca also referred to Horacio Vignali's "cooperation" with the Sheriff's Department:

¹⁵³ *Id.*

¹⁵⁴ *Id.* As described below, the C&H Body Shop was the location of a heroin trafficking arrest and was alleged to be a location where cars were altered to facilitate the transportation of narcotics and drug proceeds.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ Baca was elected Sheriff in November 1998, shortly after the death of his predecessor, Sherman Block. *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

Mr. Vignali, a highly respected businessman, cooperated with the initial investigation that enabled Sheriff's Department investigators to arrest his son for the offenses he was convicted of. This level of cooperation is rare and it reflects very highly on Mr. Vignali's integrity. That is why I am writing this letter.¹⁶⁵

However, Baca's glowing reference to Horacio's role in Carlos' arrest is misleading. First, Baca seems to ignore the fact that Horacio's first response after being contacted by Sheriff's Department investigators who wanted to speak to his son was to call his friend who was a chief in the Sheriff's Department. If Horacio Vignali was truly trying to cooperate with law enforcement, he would have told his son to meet with investigators rather than contact his politically powerful friend at the Sheriff's Department. More importantly, Baca intentionally did not tell Horacio Vignali that the Sheriff's Department intended to arrest Carlos. Rather, he told him only that they wanted to speak to him. In this instance, it appears that Sheriff Baca behaved professionally and appropriately. However, to the extent that Baca's letter portrays a father who knowingly participated in arrangements to have his son arrested, it is misleading.

ii. Sheriff Baca's Involvement in the Vignali Clemency Effort

In late 2000, Horacio Vignali again approached Sheriff Baca, this time asking for his help in obtaining a grant of clemency for Carlos. Horacio asked Baca to write a letter to the President in support of the grant of clemency.¹⁶⁶ Baca recalls that Horacio showed him other letters of support he had obtained, including one from Representative Becerra.¹⁶⁷ Horacio also mentioned that Hugh Rodham was helping him obtain a grant of clemency.¹⁶⁸ However, Baca declined to write any letter in support of Carlos Vignali's request for a commutation.¹⁶⁹ Baca informed Committee staff that he told Horacio that his son was guilty and would not receive the commutation that he wanted.¹⁷⁰ Baca believes that Horacio was upset by his refusal to write a letter regarding the commutation request.¹⁷¹ After Baca had spoken with Horacio Vignali, he began to reconsider his refusal to write a letter and decided that he could write a general letter in support of Horacio Vignali.¹⁷² He drafted such a letter, signed it, and gave the original to Horacio Vignali.¹⁷³ The letter drafted by Baca did make a number of strong statements in support of Horacio Vignali, but it did not mention Carlos at all:

This letter will confirm my support for Mr. Carlos Vignali, Sr., as a man of the highest integrity and trustworthiness. I have known Mr. Vignali for many years and have witnessed his consistent support of law enforcement and especially the policing effort of the Los Angeles County Sheriff's Department. . . . I am

¹⁶⁵ Justice Department Document Production Mayorkas 00014 (Letter from Leroy Baca, Sheriff, County of Los Angeles, to Joan L. White, U.S. Probation Officer (Nov. 1, 1996)) (Exhibit 20).

¹⁶⁶ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

confident that Mr. Vignali will fulfill any commitment he makes regarding any matter entrusted to him.¹⁷⁴

After Horacio read the letter, he told Baca he did not believe he could use the letter because it did not help his son.¹⁷⁵ Indeed, Baca believes his letter was never forwarded to the White House by Vignali.¹⁷⁶

After giving his letter to Horacio Vignali, Sheriff Baca did not have any further involvement with the Vignali matter until he received a phone call from Hugh Rodham in early January 2001.¹⁷⁷ Baca received a message from Rodham and called the number Rodham left, which turned out to be the number for the White House switchboard.¹⁷⁸ Baca was then connected with Rodham.¹⁷⁹ Rodham told Baca that he was working for Horacio Vignali and that Baca would be receiving a telephone call from the White House Counsel's Office regarding "Vignali, Sr."¹⁸⁰ Baca claims he told Rodham he had nothing to say about Carlos Vignali and believed Carlos deserved whatever he got.¹⁸¹ But, Baca indicated he would discuss Horacio Vignali with the Counsel's Office.¹⁸²

Several days after Rodham's telephone call, Baca received a message from someone else at the White House.¹⁸³ Baca returned the call to the man who had left the message, but, when he asked for that person, he was transferred to a woman who identified herself as an assistant of the man whom Baca sought.¹⁸⁴ It appears this woman was Dawn Woollen, assistant to Deputy White House Counsel Bruce Lindsey.¹⁸⁵ Woollen asked Baca what he could tell her about Horacio Vignali.¹⁸⁶ Baca told Woollen "nice things" about Horacio Vignali, particularly, that he was deeply devoted to his family and very disturbed by his son's imprisonment.¹⁸⁷ Woollen then asked Baca whether President Clinton should commute Carlos Vignali's prison sentence.¹⁸⁸ According to Baca, he answered that he was not familiar with the facts of the case and that it was the President's decision to make.¹⁸⁹ Woollen's recollection of the call is significantly different. She remembers that Baca "expressed support for the Vignali commutation" but that he was

¹⁷⁴ NARA Document Production (Letter from Leroy Baca, Sheriff, County of Los Angeles, to President William J. Clinton (Dec. 8, 2000)) (Exhibit 21).

¹⁷⁵ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ Interview with Dawn Woollen, Administrative Assistant to Deputy White House Counsel Bruce Lindsey, the White House (Sept. 25, 2001).

¹⁸⁶ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

uncomfortable writing a letter in support of Vignali.¹⁹⁰ According to Baca, he had no further involvement in the Vignali case after his conversation with Woollen.¹⁹¹

iii. Conclusion

Sheriff Baca has maintained that he never supported a grant of clemency for Carlos Vignali. Rather, Baca claims that he was opposed to the commutation. After the pardon was granted, he even made a public statement that “I maintain and espouse a policy that those persons convicted of a crime should serve their full and complete sentence.”¹⁹² Moreover, Sheriff Baca has taken the position that it was not reasonable for the White House to interpret his call as conveying support for the commutation of Carlos Vignali’s sentence.¹⁹³ However, if the account of Dawn Woollen, the assistant to Deputy White House Counsel Bruce Lindsey, is accurate, Sheriff Baca’s position is disingenuous. In addition, Sheriff Baca took a number of discrete actions that assisted the effort to get Carlos Vignali out of prison. As such, the White House was justified in believing that Baca supported a grant of clemency for Vignali.

Baca knew or should have known that his actions would assist the effort to get Carlos Vignali out of prison. When Baca wrote a letter to President Clinton vouching for Horacio Vignali’s character, he knew that he was providing Vignali with a letter that would be used to get Carlos Vignali out of prison. When he agreed to speak with White House staff about Horacio Vignali, he knew the only reason the White House wanted to know about Horacio Vignali was that they were considering a grant of clemency for Carlos Vignali. It is difficult to conceive what Sheriff Baca thought he was doing if not assisting in the effort to get Carlos Vignali out of prison. Indeed, the White House interpreted Baca’s call as supporting a grant of clemency to Carlos Vignali. It appears that Sheriff Baca’s support for Vignali, together with that of U.S. Attorney Alejandro Mayorkas (as described below), was instrumental to the White House decision to grant clemency. At a Committee hearing, Deputy White House Counsel Bruce Lindsey stated that “the Los Angeles sheriff indicated he supported a commutation.” Lindsey also stated that:

I originally was probably negative. After the call from the . . . sheriff of Los Angeles and our office reached out to the U.S. attorney in Central District of California and Los Angeles, I decided that given the community support and their position that into the county in which he would go to live, that they would be aware of the crime situation, if you will, in their community, and if they were not concerned about him coming back to their community, that I thought it was an appropriate commutation.¹⁹⁴

Sheriff Baca has been careful to point out that in none of his calls or letters did he expressly advocate support for a grant of clemency for Carlos Vignali. Nonetheless, it is likely

¹⁹⁰ Interview with Dawn Woollen, Administrative Assistant to Deputy White House Counsel Bruce Lindsey, the White House (Sept. 25, 2001).

¹⁹¹ *Id.*

¹⁹² Beth Shuster, *Baca Admits Call, Not Advocacy on Felon’s Clemency*, L.A. TIMES, Feb. 23, 2001 at A1.

¹⁹³ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

¹⁹⁴ “The Controversial Pardon of International Fugitive Marc Rich,” *Hearings Before the Comm. on Govt. Reform*, 107th Congress 387, 426 (Mar. 1, 2001).

that the careful language in the Sheriff's letters resulted from his own desire to avoid creating evidence that he supported the commutation rather than from any lack of desire to help the Vignali family. Indeed, an internal White House note confirms this view. The note indicates that Hugh Rodham told Dawn Woollen that "Sheriff Baca from LA is more than happy to speak with you about [Vignali] but is uncomfortable writing a letter offering his full support."¹⁹⁵ This note supports the conclusion that Sheriff Baca's actions had the effect of assisting Horacio Vignali's effort to get his son out of prison but did not want to create a paper trail showing that he helped a convicted cocaine dealer get out of prison.

The most troubling aspect of Sheriff Baca's involvement is his continued claims that he was opposed to the Vignali commutation. In his public statements since the commutation and his interview with Committee staff, Baca maintained that Vignali was guilty and should not have had his sentence commuted. Moreover, Sheriff Baca believes there was nothing inappropriate about his role in the Vignali matter. However, when Sheriff Baca was asked squarely by the White House Counsel's Office whether the President should commute Vignali's sentence, he said he was not familiar with the facts of the case and it was a decision that only the President could make. If Baca believed Vignali was guilty, as he claims to have, and was opposed to a commutation, he should have shared his views with the White House. It is troubling that Sheriff Baca would make self-serving statements to the Committee and the press that he was opposed to the commutation yet refused to express meaningful opposition when given the opportunity.

Sheriff Baca's actions, which are troubling enough when viewed in isolation, are even more troubling when considered in light of two additional facts. First, Horacio Vignali was a major financial supporter of Baca's campaign, contributing \$11,000 and raising tens of thousands of dollars more. Second, as discussed below, law enforcement knew of numerous allegations that Horacio Vignali himself was involved in trafficking cocaine. Thus, the top law enforcement officer in Los Angeles County supported a grant of clemency for a cocaine trafficker, the son of a major financial supporter and alleged narcotics trafficker. Sheriff Baca's involvement in the Vignali matter was inexcusable, especially for a law enforcement officer.

c. Support from U.S. Attorney Alejandro Mayorkas

As described below, the government attorneys who actually convicted Vignali vehemently opposed the Vignali commutation. In the face of this opposition, the intervention of Los Angeles-area U.S. Attorney Alejandro Mayorkas is particularly troubling. According to President Clinton's Deputy Counsel, Bruce Lindsey, the White House Counsel's Office "reached out" to Mayorkas regarding Vignali's clemency petition.¹⁹⁶ Why the White House reached out to Mayorkas – who had no role in prosecuting Vignali in Minneapolis – rather than to the federal prosecutors who convicted Vignali is far from clear. Equally unclear and of greater concern is why the White House gave greater weight to Mayorkas' position than it did to the strenuous

¹⁹⁵ NARA Document Production (Note from Dawn Woollen, Secretary to Deputy White House Counsel Bruce Lindsey, the White House to Bruce Lindsey, Deputy White House Counsel, the White House) (Exhibit 22) (NARA cover sheet, reflecting that document came from Lindsey's file, attached).

¹⁹⁶ "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Congress 426 (Mar. 1, 2001).

objections of the U.S. Attorney's Office that actually convicted Vignali and the Pardon Attorney's negative recommendation.

i. Mayorkas' Initial Exposure to the Vignali Matter

Sometime in the first quarter of 1999, Mayorkas received a call from Representative Xavier Becerra.¹⁹⁷ During that conversation, Becerra informed Mayorkas that he had received information regarding an appeal of Carlos Vignali's conviction.¹⁹⁸ Becerra sent Mayorkas a copy of the brief and asked him to look into the matter.¹⁹⁹ Becerra attached to the brief a few letters submitted by various community leaders in support of Carlos Vignali's case.²⁰⁰ Because some of those letters were addressed to a "Pardon Secretary," Mayorkas believes he assumed Carlos Vignali was seeking clemency.²⁰¹

According to Mayorkas, he treated Congressman Becerra's call as he did other inquiries from congressmen, which he received frequently.²⁰² In this case, he consulted Minnesota U.S. Attorney Todd Jones, whose office tried the original case against Vignali.²⁰³ In fact, Mayorkas called Jones twice.²⁰⁴ In the first call, which occurred shortly after the inquiry from Representative Becerra, Mayorkas called Jones to obtain information on the status of Carlos Vignali's case.²⁰⁵ In response, Jones told Mayorkas that Carlos Vignali was "a major player" in drug trafficking.²⁰⁶ Jones told Mayorkas, "don't go there," when it came to Vignali – he was "bad news."²⁰⁷ Jones also told Mayorkas he should call Assistant U.S. Attorney Andrew Dunne

¹⁹⁷ Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001).

¹⁹⁸ *Id.*

¹⁹⁹ *Id.* Mayorkas did not read the brief. After he received it, he put it in a file.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.* Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001); *Power of words from high places*, L.A. TIMES, Feb. 14, 2001, at B10; Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1. Jones believed that Mayorkas received inquiries from Horacio Vignali and was reaching out to Jones to look into Vignali's case. Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001). Specifically, Jones opined, "Why [was Mayorkas calling him]? Because the old man was calling him. Horacio was contacting [Mayorkas] and his U.S. Attorney's Office seeking support for a commutation." Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1.

²⁰⁴ *Id.* Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001); *Power of words from high places*, L.A. TIMES, Feb. 14, 2001, at B10; Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001 at A1.

²⁰⁵ Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001); Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001) (Jones noting that December 2, 1999 is the likely date); Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001 at A1.

²⁰⁶ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2000).

²⁰⁷ *Id.* In an Interview with Committee staff, Mayorkas denies having been told this. Also, Jones recalls that, during their discussion, Mayorkas referred to Horacio Vignali as a "player in the community in Los Angeles, a pillar in the community." Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1. *See also* Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001) (describing that Mayorkas also told Jones that Horacio Vignali was "a big guy in the community"). Mayorkas sternly denies ever having told Jones that Horacio Vignali was a pillar — or player

for further details regarding the case.²⁰⁸ Mayorkas noted that he might have asked Jones during the call if his office was interested in receiving Carlos Vignali's cooperation, but he does not specifically recall.²⁰⁹ Mayorkas relayed what he learned back to Congressman Becerra.²¹⁰

Jones also referred Mayorkas to a line attorney who handled the case for specifics regarding Carlos Vignali's conviction.²¹¹ As described below, that line attorney was probably Assistant U.S. Attorney Andrew Dunne, who tried the government's case with former Assistant U.S. Attorney Denise Reilly. Jones believes that Mayorkas may have followed up with Dunne. Mayorkas cannot recall whether he spoke with Dunne but believed that such a conversation may have taken place. Unfortunately, the Committee was unable to interview Dunne to confirm the conversation because of objections from the Department of Justice. However, if such a conversation took place, Mayorkas would have likely gained even more specific information regarding the scope of Vignali's criminal activity.

After looking into the Vignali case for Representative Becerra, Mayorkas actually met Horacio Vignali for the first time. Over the next two years, Mayorkas would see Horacio Vignali at various community events and at several one-on-one meetings with Vignali. When Mayorkas saw Horacio Vignali, Vignali would usually mention his son's case and tell Mayorkas how much anguish he was suffering as a result of his son's imprisonment. Sometime early in 1999, Horacio Vignali spoke to Mayorkas about executive clemency.²¹² Mayorkas told Horacio the only way he knew that Carlos' sentence could be reduced was for him to cooperate with law enforcement and receive a reduction of his sentence under Federal Rule of Criminal Procedure 35.²¹³ Mayorkas does not recall Horacio Vignali's response to that comment.²¹⁴

ii. Mayorkas Calls the White House

In early January of 2001, Horacio Vignali called Mayorkas and, noting that a petition for the commutation of his son's sentence was pending, asked Mayorkas if he would call the White House.²¹⁵ During that conversation, Horacio Vignali stated that other individuals, including Sheriff Baca and Archbishop Mahoney, had made similar communications.²¹⁶ After Horacio Vignali's call, Mayorkas called the Justice Department to see if it was proper for him to contact

— in the community. Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001). According to Mayorkas, he just does not talk like that.

²⁰⁸ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001). Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001) (Mayorkas stating that he recalls having been referred to a line attorney as well as the general fact of their conversation but cannot specifically recall what was discussed).

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.* Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001) (Jones noting that he referred Mayorkas to Dunne "for the gory details").

²¹² Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001).

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

the White House regarding a clemency matter in which he did not have a prosecutorial role.²¹⁷ The Justice Department referred Mayorkas to the Office of the Pardon Attorney.²¹⁸ Mayorkas spoke to an unidentified female lawyer at the Pardon Attorney's Office and asked if it was permissible for him to make a call to the White House regarding clemency.²¹⁹ Mayorkas recalls telling the attorney that: (1) the case he intended to weigh in on was not in his jurisdiction; (2) he did not know the defendant but knew the parents; and (3) he intended only to speak to the integrity of the parents.²²⁰ According to Mayorkas, the Office of the Pardon Attorney permitted him to call the White House.²²¹ Mayorkas noted that the attorney with whom he spoke did not express the slightest reservation about his intention to call the White House.²²²

Before calling the White House, Mayorkas called Minnesota U.S. Attorney Todd Jones and informed him of his intention to weigh in with the White House.²²³ Indeed, Jones also recalls that Mayorkas initiated a second contact with him regarding the Carlos Vignali matter and specifically asked him how he came out on Vignali's clemency request.²²⁴ Jones told Mayorkas that he opposed commutation of Vignali's sentence.²²⁵ He did not recall whether Mayorkas indicated an intent to weigh in with the White House but noted that the conversation was very brief.²²⁶ Jones was troubled by Mayorkas' inquiries about the Vignali case and his subsequent lobbying on behalf of Vignali, believing that only the U.S. Attorney who prosecuted the case should have been involved in recommending a grant of clemency and that, if a prosecutor was not so involved, he should "stay the hell away from it."²²⁷ Jones remarked that if the roles were reversed, he would never have weighed in on the Vignali case.²²⁸

Mayorkas then called Deputy White House Counsel Bruce Lindsey.²²⁹ Mayorkas believes that Horacio Vignali suggested he call Lindsey and provided him Lindsey's contact information.²³⁰ Mayorkas' call was returned by Associate White House Counsels Meredith Cabe and Eric Angel.²³¹ Mayorkas indicated that Horacio Vignali had asked him to make the call.²³²

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001). *See also* Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1.

²²⁵ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001); Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001).

²²⁶ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001); Richard A. Serrano and Stephen Braun, *U.S. Attorney Pursued Clemency Case*, L.A. TIMES, Feb. 13, 2001, at A1.

²²⁷ Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2001).

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.* *See also* Telephone Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001) (corroborating that she and Angel spoke with Mayorkas); Interview with Eric Angel,

Also, according to Mayorkas, he told Cabe and Angel that he was not familiar with the facts of the case and did not know the defendant but knew the parents to be good people.²³³ In that conversation, he also noted that the federal prosecutors in Minnesota who convicted Vignali opposed commutation of Vignali's sentence.²³⁴ Mayorkas does not recall having expressed support for Vignali's clemency request during that call.²³⁵ But, he observed that the fact of his call conveyed support for the commutation, noting, "By virtue of the fact of the phone call, there's no question that I conveyed support for the commutation."²³⁶

Mayorkas' belief, in hindsight, that his call to the White House conveyed support for Vignali's clemency request was correct. Statements of various staff members at the White House involved in the clemency process indicated that they thought that Mayorkas supported the commutation. Chief of Staff John Podesta plainly believed that Mayorkas actually supported commutation of Vignali's sentence.²³⁷ Also, in testimony before the Committee, Deputy White House Counsel Bruce Lindsey stated that Mayorkas, "while saying he didn't know much about the facts, felt like that the family was a good environment for which [sic] Mr. Vignali would get the proper supervision."²³⁸ Associate White House Counsel Meredith Cabe likewise confirmed that Mayorkas supported Vignali's petition, said he thought well of the Vignali family, and believed that the family would support Vignali after his release.²³⁹ According to Cabe, Mayorkas explained his views in the Vignali case by asserting that most drug sentences were disproportionate.²⁴⁰

iii. Conclusion

Alejandro Mayorkas acted inappropriately in supporting the commutation of Carlos Vignali's sentence. Mayorkas made three major mistakes in the Vignali matter. First, Mayorkas should have realized that by calling the White House regarding Horacio Vignali, he was conveying support for the commutation of Carlos Vignali's sentence. Mayorkas now understands that his call had such an effect, but there is no reason that Mayorkas should not have

Associate Counsel to the President, the White House (Mar. 28, 2001) (corroborating that he and Cabe spoke with Mayorkas).

²³² Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001).

²³³ *Id.*

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ Richard Serrano, *L.A. Leaders' Support Cited in Decision to Free Vignali*, L.A. TIMES, Feb. 19, 2001, at A1.

²³⁸ "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Congress 387 (Mar. 1, 2001).

²³⁹ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001); Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

²⁴⁰ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001); Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001). Mayorkas strenuously denies having said this. Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001). According to Mayorkas, he was never in a position to opine about the appropriateness of Vignali's sentence. And, if he was asked whether he holds that position now, the answer would be "no." And, if one were to ask whether he espoused that position then, his answer would be "no." According to Mayorkas, "Some sentences are too lenient. Others are too harsh." But, regarding the term "disproportionate" as relating to Vignali's sentence, Mayorkas stated that he "never talked like that."

understood this simple fact when he called. Mayorkas understood that the White House was considering the commutation of Vignali's sentence. He knew that the only reason the White House wanted to hear from him was so that it could evaluate whether to grant the commutation. Therefore, when he provided a positive character reference for Horacio Vignali, he should have known it would have a positive effect on Carlos Vignali's commutation petition.

Second, just as Mayorkas should have known the effect of his actions, he should have known he was weighing in on a matter about which he knew very little. Mayorkas was aware that the prosecutor responsible for the Vignali case, Todd Jones, was against the commutation. In fact, he pointed this fact out to White House staff during his conversation with them. However, Mayorkas should have also known that, as a U.S. Attorney, he was providing confusing signals to the White House. He should have realized he was abusing his office by providing a character reference in a clemency case in which his office had no involvement.

Finally, Mayorkas did not know Horacio Vignali well enough to offer a character reference. Mayorkas' relationship with Horacio Vignali consisted of seeing Vignali at various community events and only two or three one-on-one meetings for dinner or drinks. Mayorkas now concedes that he did not know Vignali well enough to call the White House and provide a character reference. But, Mayorkas' concession raises questions as to why he made the call at all. Three possibilities are apparent: first, that Mayorkas is simply an overly compassionate person who provided help when he should not have; second, that he wanted to help a well-connected, wealthy, and politically powerful businessman; and third, that he felt pressure to help Vignali because so many other Los Angeles political figures were helping him. Most likely, Mayorkas assisted Vignali out of a combination of all three of these factors.

However, of all of the people who were involved in helping Carlos Vignali, Mayorkas appears to have most clearly accepted responsibility and apologized for his actions. After his involvement in the Vignali matter came to light, Mayorkas explained to his staff:

I called the White House counsel's office and informed the office that I was not familiar with the facts of the case, that the prosecuting U.S. attorney was against the commutation, and that I was calling because I knew the parents to be upstanding people. I understand that my telephone call conveyed support for the commutation. In hindsight, it was a mistake for me to place that call [to the White House] and I am sorry that I did so. I allowed my compassion for the parents to interfere with my judgment."²⁴¹

In addition, the responsibility for the Vignali commutation cannot be pinned entirely on Mayorkas, as some White House staff have attempted to do. In various settings, White House staff have pointed to the involvement of Mayorkas, along with Sheriff Baca, as being central to the President's decisionmaking. Deputy White House Counsel Bruce Lindsey testified that he changed his mind regarding the Vignali matter after the White House heard from Baca and Mayorkas. Associate White House Counsel Meredith Cabe stated that Mayorkas' opinion was "significant" because "very few prosecutors advocate clemency in any form." But, the White House was not justified in relying on the support offered by Baca or Mayorkas to any

²⁴¹ *U.S. Attorney Apologizes For Role in Vignali Pardon*, CITY NEWS SERVICE, Feb. 23, 2001.

determinative extent. While they both made statements that amounted to support for Horacio Vignali, and as such, support for the commutation, they both also made it clear that they knew little about the case against Carlos Vignali. It appears that the White House was looking for reasons justifying commutation and as such used the support of Mayorkas and Baca as a fig leaf to rationalize its decision.

4. California Law Enforcement and Political Officials Supported Vignali's Clemency Petition Despite Serious Allegations Against Horacio and Carlos Vignali

a. There Were Extensive Allegations of Drug Trafficking Against Both Horacio and Carlos Vignali

The Committee has learned of numerous allegations made to law enforcement as long as twenty five years ago that Horacio Vignali was involved in cocaine trafficking and other illegal activity. The Committee has also discovered other allegations that Carlos Vignali was involved in drug sales even more extensive than those for which he was prosecuted in Minnesota. Although the information the Committee obtained consists solely of allegations against Horacio and Carlos Vignali, it is extremely significant. These reports allege long-term criminal activity on the part of Horacio Vignali, in particular, that Horacio Vignali was involved in the cocaine trade and was the source of supply for his son. Despite the availability of these reports to Sheriff Baca and U.S. Attorney Mayorkas, both chose not to exercise any due diligence before supporting Vignali's clemency plea. Although the White House and the Justice Department also had access to these reports, it apparently did not consider them. Even though these serious allegations have not been proven, the mere fact of their existence — without additional information — should have ruled out the possibility of executive clemency for Carlos Vignali. Instead, these reports were never considered.

While the extensive DEA reports regarding Horacio and Carlos Vignali are being made public only now, it appears that suspicions about Horacio Vignali's role in drug trafficking were widespread and well-known to law enforcement. In interviews with Committee staff, Todd Jones and Denise Reilly, who were responsible for the investigation and prosecution of Carlos Vignali in Minnesota, both indicated they believed that Carlos Vignali was not the "end of the line" and were aware of the widespread belief among investigators that Horacio Vignali was involved in drug trafficking with his son.²⁴² Law enforcement officers in California had even more detailed knowledge regarding allegations against Horacio and Carlos Vignali. According to a number of investigators working for local law enforcement in Southern California, both Horacio and Carlos Vignali had been the subjects of major drug investigations.²⁴³ As the

²⁴² Telephone Interview with the Honorable Denise Reilly, Juvenile Court Judge, 4th Judicial District of Minnesota (Hennepin County) (May 11, 2001); Telephone Interview with Todd Jones, U.S. Attorney for the District of Minnesota, Department of Justice (May 2, 2000).

²⁴³ In the course of its inquiry, the Committee has learned that while the White House was reviewing Carlos Vignali's clemency petition, Horacio Vignali and associates of Vignali were part of an Organized Crime Drug Enforcement Task Force ("OCDETF") investigation in the Los Angeles area. Various federal and California law enforcement agencies were investigating Carlos and Horacio Vignali's involvement in supplying narcotics before Carlos' conviction in Minneapolis and Horacio Vignali's personal and business relationship with alleged California

following reports indicate, a number of law enforcement agencies apparently received credible information indicating that Carlos and Horacio Vignali were personally involved in large-scale drug dealing. These same agencies also received allegations indicating that the Vignalis were part of a large organized drug-dealing ring headed by George Torres.

The first series of reports indicates that there were allegations of drug dealing against Horacio Vignali dating back to 1976. Among those reports is a DEA-6, an internal investigative report, which notes:

[Horacio] Carlos VIGNALI²⁴⁴ – Co-owner of the C & H Auto Body Shop. His drug relationship with the [redacted] Organization is also unknown. VIGNALI however is a close personal friend of [redacted]. In November, 1975, he negotiated with ATF Agents to sell a machine gun and stated to them that he had also smuggled heroin into the United States utilizing automobiles. Since current intelligence indicates that the remainder of the [redacted] Family in Los Angeles, [redacted] are still dealing in multi-kilogram quantities of heroin, it is recommended that a grand jury probe be initiated with the object of eliminating the remaining [redacted] Organization in Los Angeles by obtaining indictments on [redacted] possibly other members of their organization such as [redacted] [Horacio] Carlos VIGNALI, [redacted].²⁴⁵

A December 1, 1976, DEA report contains similar information:

[Horacio] Carlos VIGNAL [sic] – the [redacted]s used his body shop in Los Angeles to take heroin out of the drive shafts of vehicles brought into the United States from Mexico.²⁴⁶

A more recent set of DEA reports contains additional allegations that Horacio Vignali was involved in drug trafficking. They also show that the DEA received information indicating Horacio was involved in the drug trade with his son Carlos. A March 19, 1993, report states:

The “traps”, (hidden compartments) were built into the truck through Carlos VIGNALI Jr. for \$5,000.00. [Redacted] has also purchased cocaine from Carlos VIGNALI Jr. of Los Angeles. . . . VIGNALI’s father Carlos VIGNALI aka “pops” owns a body shop, at 1260 Figueroa and is the source of supply for his son.²⁴⁷ . . . An associate of VIGNALI, Jorge TORRES aka “G” owns [NUMERO UNO] Market on Jefferson St. in Los Angeles. Across the street

drug figure George Torres. In this case, the OCDETF investigation was being conducted by the federal government in cooperation with various agencies of the California State Department of Justice.

²⁴⁴ The DEA report refers to “Carlos Vignali,” but it clearly means Horacio Vignali, or “Carlos Vignali, Sr.,” as he is known to many of his associates. The date of birth listed for Vignali, as well as other personal information, appears to correspond to that of Horacio Vignali.

²⁴⁵ DEA Document Production V-DEA-00009 (DEA -6—Internal Investigative Report (Feb. 18, 1976)) (Exhibit 23).

²⁴⁶ DEA Document Production V-DEA-00012 (DEA -6—Internal Investigative Report (Dec. 1, 1976)) (Exhibit 24).

²⁴⁷ This information casts the following testimony from Horacio Vignali at Carlos’ trial in a new light: “I treated him like my best friend, my partner. Anything he needed, I would always provide for him. Always. It doesn’t matter. I always provided for him.” *See* Transcript of Trial, *U.S. v. Vignali* (D. Minn. Dec. 1, 1994) at 297.

from the Market, TORRES maintains a warehouse full of luxury vehicles and tractor trailers used to transport cocaine. The warehouse also has a penthouse complete with a casino where TORRES and VIGNALI gamble. . . . Cocaine purchased from VIGNALI Jr. went to [redacted] of Shreveport, La.²⁴⁸

The Committee has received additional information from a DEA report that it is not releasing because it could identify confidential informants.²⁴⁹ In this report, an informant alleges, based on his direct knowledge, that Carlos Vignali sold hundreds of kilograms of cocaine. Additionally, Vignali is alleged to have stated that he had ties to the relative of a prominent South American cocaine dealer. Like the other information in the DEA reports, these allegations are unproven.

In addition to the reports listed above, two recent reports indicate that the DEA received information linking Horacio Vignali to a large-scale drug dealing organization headed by George Torres.²⁵⁰ A September 25, 1997, DEA Case Initiation Report describes the Torres organization:

[Torres' organization] has been in existence since the middle 1980's when it was closely associated with the [redacted] family in their drug trafficking. By the early 1990's this group were [sic] transporting approximately 1,800 kilograms of cocaine into the Los Angeles [sic] area from Mexico. At that time they were smuggling the cocaine using the [redacted] TORRES's tractor-trailer trucks, concealing the drugs inside laundry detergent and jalapeno chilli [sic] cans. [Redacted.] Since that time TORRES has continued to be involved in drug trafficking and information shows that his organization supply [sic] various drug trafficking organizations throughout the United States. TORRES' organization has used illicit profits derived from drug trafficking to buy legitimate businesses and properties throughout Los Angeles [sic] and southern California. . . . Investigators believe that the organization uses these businesses to laundry [sic] its drug proceeds.²⁵¹

A September 16, 1998, DEA report about Torres reported the following:

To date, the investigation shows that the TORRES organization is involved in the importation and distribution of drugs throughout the United States. Latest intelligence reveals that this group is distributing approximately one hundred (100) kilograms of cocaine per month. [Redacted.] George TORRES is the head of this organization. TORRES' direct associates include [redacted] Carlos VIGNALI. [Redacted] Carlos Horatio [sic] VIGNALI's role in the organization

²⁴⁸ DEA Document Production (DEA -6—Internal Investigative Report (Mar. 19, 1993)) (Exhibit 25).

²⁴⁹ See DEA Document Production V-DEA -00028-29 (DEA -6—Internal Investigative Report (Apr. 26, 1993)) (Exhibit 26). The Committee has reviewed an unredacted copy of this report but is not releasing it for the reason described above.

²⁵⁰ At trial, Carlos Vignali conceded that Torres was a friend of the family and, in particular, of his father.

Transcript of Trial, *U.S. v. Vignali* (D. Minn. Nov. 29, 1994) at 227. Carlos appears to have used a variation of George Torres' name – “Charles Torres” – when he subscribed for his pager. Because Carlos used that pager to communicate with his coconspirators in trafficking cocaine, he used “Charles Torres” to conceal his true identity.

²⁵¹ DEA Document Production V-DEA -00110 (DEA Case Initiation Report (Sept. 25, 1997)) (Exhibit 27).

is relatively unknown at this time. It is believed that VIGNALI functions as a financial partner in the organization. VIGNALI has been involved in organizing meetings between TORRES and individuals with extensive criminal backgrounds.²⁵²

The report goes on to describe the scope of Torres' activities:

The TORRES organization has used its profits from drug trafficking to purchase legitimate businesses and properties throughout the Southern California area ... The grocery and wholesale business are cash intensive thus making it easy to launder illicit funds through them. In 1996, TORRES' businesses had sales of approximately \$50,000,000. Investigators believe that TORRES uses these businesses, properties and vehicles to launder his drug profits. Members of the TORRES organization have been involved in various acts of violence. In 1996, TORRES was arrested for being a felon in possession of a firearm. The Los Angeles Police Department (LAPD) has named TORRES a suspect in two murders. One involved a disgruntled employee and the other involved the owner of a property adjacent to one of TORRES' businesses. TORRES has been known to intimidate and threaten others and in so doing likes to portray himself as a Mafia member. He often uses his associates to carry out these acts of intimidation.²⁵³

This troubling report regarding Horacio Vignali and George Torres was received just one month after Carlos Vignali applied for executive clemency.

b. The Extensive Allegations Against Horacio and Carlos Vignali Were Never Considered by Sheriff Baca, U.S. Attorney Mayorkas, or the Clinton White House

The allegations made against Horacio Vignali, Carlos Vignali, and George Torres are serious. However, with respect to the decision to commute the sentence of Carlos Vignali, the key fact is that these allegations existed, and none of the individuals involved in the clemency process conducted sufficient due diligence to find these reports. Both Sheriff Lee Baca and U.S. Attorney Alejandro Mayorkas, who made supportive calls to the White House on the Vignalis' behalf, had access to this information. In addition, the White House should have been provided with this information as part of the clemency process. However, it appears that Baca, Mayorkas, and the White House were all unaware of the extensive allegations against the Vignalis.

Committee staff asked Sheriff Baca whether he was aware of any allegations that Horacio Vignali was involved in drug trafficking. Baca replied that he was not aware of any such allegations.²⁵⁴ Baca readily admitted that he would be the person to know if there were any such

²⁵² DEA Document Production (Case Initiation Report on the George Torres Cocaine Trafficking Organization, Sept. 16, 1998) (Exhibit 28).

²⁵³ *Id.*

²⁵⁴ Telephone Interview with Leroy Baca, Sheriff, County of Los Angeles (June 22, 2001).

allegations against Vignali.²⁵⁵ Sheriff Baca was also asked if he was familiar with George Torres. He stated that he knew Torres and “know[s] him to be a legitimate businessman.”²⁵⁶ As he himself conceded, Sheriff Baca, the top law enforcement officer in Los Angeles County, should have known if a businessman of Horacio Vignali’s or George Torres’ caliber was alleged to have been involved in drug dealing.²⁵⁷ Therefore, it is troubling that Baca is completely unaware of the allegations against Vignali and Torres. It appears that rather than investigate these allegations against Horacio Vignali and close down what might have been a major conduit for drugs into the Los Angeles area, Sheriff Baca maintained a warm relationship with Vignali and vouched for him as a “man of the highest integrity and trustworthiness.” Indeed, Baca held three fundraisers at Vignali’s C&H Body Shop, which itself was alleged to be a locus for unloading drugs and outfitting vehicles for smuggling drugs.

Committee staff also asked Alejandro Mayorkas whether he was aware of allegations that Horacio Vignali was involved in drug trafficking.²⁵⁸ Mayorkas expressed great surprise that Horacio Vignali was the subject of these kinds of allegations.²⁵⁹ When informed of the allegations, Mayorkas immediately stated that if he had been aware of the allegations, he would have ruled out any possibility of involvement in Carlos Vignali’s clemency petition. Mayorkas also confirmed that it would not have mattered to him that the allegations against Horacio Vignali were not proven. Mayorkas stated that “an allegation is enough – the world consists of the caught and the uncaught. Allegations alone would have eliminated the possibility [of my involvement].”²⁶⁰

Mayorkas conceded that he did not exercise any due diligence regarding the Vignalis prior to his weighing in on the clemency proceedings with the White House.²⁶¹ In other words, he did not consult his criminal chief or the head of his narcotics division at the Los Angeles-area U.S. Attorney’s Office to determine whether his own office had an investigative or prosecutorial interest in the Vignalis, which might have conflicted with his assistance to the Vignalis.²⁶² Mayorkas explained that his failure to conduct due diligence resulted from his belief that he was not supporting Carlos Vignali’s clemency petition. Since he did not view himself as providing support for the grant of clemency, Mayorkas did not believe that he needed to investigate Vignali’s background. However given what he knows in hindsight about the Vignalis and about how his call to the White House was interpreted by White House staff, Mayorkas conceded it was perhaps an error for him to have taken his involvement in the clemency proceedings so lightly.²⁶³

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ According to a November 10, 1992, DEA report, the gang enforcement unit at the Los Angeles County Sheriff’s Department discovered that a vehicle used by Carlos Vignali was registered to a company that owned cars “associated with various gangs.” DEA Document Production V-DEA-00024 (DEA-6, Report of Investigation, “Carlos Anibal Vignali,” (Nov. 10, 1992)) (Exhibit 29).

²⁵⁸ Telephone Interview with Alejandro Mayorkas, former U.S. Attorney for the Central District of California, Department of Justice (June 15, 2001).

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.*

While Mayorkas' acceptance of responsibility is commendable, his actions in this matter remain less than commendable, especially for the top federal prosecutor in Los Angeles. Mayorkas has explained that his actions in this matter were motivated by his sympathy and compassion for a father who appeared to be distraught by the imprisonment of his son. Because he failed to conduct due diligence and look into Horacio Vignali's background before contacting the White House, Mayorkas ended up providing assistance to a man who was alleged to be a drug dealer and the source of cocaine for his son. Like Sheriff Baca, Mayorkas was a senior law enforcement official charged with protecting his communities. By becoming involved in the Vignali matter without being fully aware of the facts, both did the public a profound disservice to the rule of law.

There is no indication that the White House was ever made aware of the additional allegations against Horacio and Carlos Vignali. Unlike many other last-minute pardons and commutations, the Vignali commutation was filed with and processed by the Justice Department. Although the Vignali petition was filed with the Justice Department in August 1998,²⁶⁴ there is no indication that the Justice Department discovered these allegations against Horacio and Carlos Vignali during its background check. The memorandum prepared by the Pardon Attorney, Roger Adams, for President Clinton makes no mention of these allegations. There is also no indication that they were provided to the White House in any other form. However, it is possible that the White House would have learned about these allegations if it had reached out to the prosecutor who had tried Vignali's case or the judge who sentenced him. Rather, they reached out to Horacio Vignali's friends and associates in Los Angeles who knew little about the Vignali case but were ready to provide a favorable reference.

Therefore, the failure of the White House to receive this information appears to be the result of the skewed, *ad hoc* system set up by President Clinton to churn out pardons and commutations in the waning days of his presidency. This was a system that necessarily catered to the wealthy and the well-connected. If White House staff had approached the Vignali matter in a deliberate manner and had spoken to the individuals who knew the most about Carlos Vignali's conviction, they likely would have learned this information. While it is not certain that this information regarding the drug dealing allegations against Horacio and Carlos Vignali would have changed President Clinton's mind, it clearly should have been considered.

C. The White House's Review of Vignali's Clemency Request

Carlos Vignali's clemency petition was first filed with the Justice Department in August 1998, but it first came under serious consideration much later, in December 2000, when Hugh Rodham was hired by the Vignali family and approached the White House about a grant of clemency for Carlos Vignali. Rodham's contacts with the White House started a process culminating in the January 20, 2001, commutation of Vignali's sentence. The process by which the White House considered the Vignali petition was remarkable and disturbing for a number of reasons:

²⁶⁴ NARA Document Production (Petition for Commutation of Sentence) (Exhibit 10).

- Hugh Rodham made a number of misrepresentations to the White House regarding the Vignali matter. Nevertheless, the White House continued to rely on his word and granted the commutation he so desperately sought.
- The White House sought input from a number of Vignali's supporters yet never contacted the prosecutors who tried the Vignali case or the judge who sentenced him.
- The White House ignored the strenuous objections lodged by the Pardon Attorney who had considered the position of the prosecutors who tried the Vignali case.
- The White House apparently relied heavily on letters and statements of support by California politicians and law enforcement figures despite the fact that they either misstated the Vignali case or were completely unaware of the facts of the case.
- The White House has subsequently misstated the facts of Vignali's case in an attempt to justify the unjustifiable.

1. Hugh Rodham's Hiring

In connection with its investigation, the Committee requested that Hugh Rodham produce records to the Committee and participate in an interview with Committee staff. Rodham refused both requests, citing attorney-client privilege. Rodham made a blanket invocation of the privilege even though the privilege does not apply to the vast majority of Rodham's activities. For example, Rodham's contacts with third parties, like White House staff, are not covered by the attorney-client privilege. Therefore, by using the attorney-client privilege to avoid any inquiry from the Committee, Rodham is simply seeking to avoid questions about his activities rather than to protect any legitimately privileged information. Despite Rodham's unreasonable invocation of privilege, the Committee was able to piece together a number of Rodham's activities.

It appears that the Vignalis hired Rodham late in 2000. According to Luis Valenzuela, a close friend of Horacio Vignali,²⁶⁵ James Casso, the son-in-law and former district director of former Congressman Esteban Torres, introduced Horacio Vignali to Rodham sometime around October 2000.²⁶⁶ At that time, Valenzuela attended a dinner at Barrangas restaurant in Los Angeles where he met with Horacio Vignali, Casso, Rodham, and three members of the Lum family.²⁶⁷ The Lums were seeking presidential pardons through Hugh Rodham at that time, and

²⁶⁵ Valenzuela is a Los Angeles-area real estate executive and a member of the Congressional Hispanic Caucus Institute.

²⁶⁶ Telephone Interview with Luis Valenzuela, Vice President, NAI Capital Commercial Real Estate Services (Oct. 30, 2001). Presently, Casso, who served as Congressman Torres' district director until Torres' retirement in 1999 and unsuccessfully ran for Congress, is an attorney with the Los Angeles firm of Alavarez-Glasman & Colvin.

²⁶⁷ *Id.* According to Valenzuela, Nora Lum, her sister, Kathy Nojima, and her daughter, Nickie, attended the dinner. Because Gene Lum was then in prison for a tax evasion conviction, he was apparently unable to attend the dinner. According to Valenzuela, Casso might have represented the Lums on various real estate matters. Gene and Nora Lum, who operated an Oklahoma natural-gas pipeline company, received 10-month sentences after pleading guilty in October 1997 to funneling \$50,000 in illegal contributions to the 1994 re-election campaign of Senator Edward Kennedy and to an unsuccessful congressional campaign in Oklahoma. Federal Document Clearing House, Department of Justice, *New Jersey Attorney Sentenced in Campaign Finance Case*, Oct. 12, 2000 (summarizing

it is possible Rodham introduced the Lums to Horacio Vignali as a way of marketing his services. After dinner, the Lums left the restaurant, and Horacio Vignali discussed his son's clemency matter with Rodham.²⁶⁸ At that point, Horacio Vignali explained the background of his son's underlying conviction and provided Rodham with a binder of materials regarding his son.²⁶⁹ Rodham indicated that he would review the matter, "make some calls," and get back to Horacio Vignali.²⁷⁰ For that initial consultation, Rodham charged Horacio Vignali \$4,200.²⁷¹ Valenzuela was not privy to any further meetings or discussions between Rodham and Vignali.²⁷²

Due to the refusal of Horacio Vignali, Hugh Rodham, and James Casso to cooperate with the Committee, little is known about the agreement that was reached between Rodham and Vignali after the Barrangas dinner. What is clear is that Rodham agreed to help Carlos Vignali obtain a commutation from President Clinton, and that Horacio Vignali agreed to pay \$200,000 to Rodham, contingent on Rodham's success in getting Carlos Vignali out of prison.

Horacio Vignali paid Rodham on January 23, 2001, three days after Carlos Vignali received his commutation. Vignali's bank records make it appear that Vignali originally wrote a check for \$200,000 to Rodham & Fine, Rodham's law firm, but then converted those funds into a cashier's check.²⁷³ That cashier's check was purchased by Maria Cisneros, the office manager for Horacio Vignali's Morvis Corvis Corporation.²⁷⁴ It is unknown whether Vignali altered his payment method at Rodham's request. Hugh Rodham deposited the funds on January 24, 2001.²⁷⁵

Campaign Task Force prosecutions). They admitted making the donations through "straw donors," including their daughter and Michael Brown, son of the late Commerce Secretary Ron Brown. The fundraisers gave Michael Brown thousands of dollars in shareholder fees and corporate perks, and Brown then gave the money to friends to give to Kennedy's re-election campaign.

²⁶⁸ Telephone Interview with Luis Valenzuela, Vice President, NAI Capital Commercial Real Estate Services (Oct. 30, 2001).

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.* See also City National Bank Document Production (Check from Horacio C. and Luz C. Vignali to Rodham & Fine, P.A. for \$4,200.00 (Nov. 22, 2000)) (Exhibit 30).

²⁷² Telephone Interview with Luis Valenzuela, Vice President, NAI Capital Commercial Real Estate Services (Oct. 30, 2001).

²⁷³ See Turnberry Bank Document Production (Check from Horacio C. and Luz C. Vignali to Rodham & Fine for \$200,000 (Jan. 23, 2001)) (Exhibit 31); City National Bank Document Production (Application for Cashier's Check (Jan. 23, 2001)) (Exhibit 32); First Union Document Production (Deposit Slip and Cashier's Check for \$200,000 (Jan. 26, 2001)) (Exhibit 33).

²⁷⁴ See City National Bank Document Production (Application for Cashier's Check (Jan. 23, 2001)) (Exhibit 31); City National Bank Document Production (Morvis Corvis Business Account Agreement (Mar. 5, 2001)) (Exhibit 34) (describing Maria Cisneros as "office manager").

²⁷⁵ First Union Document Production (Deposit Slip and Cashier's Check for \$200,000 (Jan. 26, 2001)) (Exhibit 33). In several contexts, Valenzuela appears to have been involved in funding Horacio Vignali's payment to Rodham. On January 12, 2001, Horacio Vignali wrote a check for \$200,000 to City National Bank. On the memo of that check, Vignali noted "CC: Luis Valenzuela." See City National Bank Document Production (Exhibit 35). In a separate transaction, on January 26, 2001, a cashier's check for \$200,000 was purchased, apparently on Horacio Vignali's behalf, and made payable to Luis Valenzuela. See City National Bank Document Production (Exhibit 36). It appears that the check was later endorsed by Cisneros and ultimately deposited into Horacio's personal account. Accordingly, it appears that Vignali contemplated paying Valenzuela but changed his mind. See City National Bank Document Production (Deposit Slip for \$200,000 (Jan. 26, 2001)) (Exhibit 37).

By December 2000, Hugh Rodham was apparently actively working on Carlos Vignali's clemency petition. This is evidenced by a December 9, 2000, letter to Rodham wherein Horacio Vignali forwarded a number of letters of support for Carlos Vignali.²⁷⁶ The letter begins, "[p]ursuant to your conversation with Jaime Casso, I am enclosing the testimonial letters I have been able to secure as of today."²⁷⁷

2. Hugh Rodham's Initial Approach to the White House

In mid-December 2000, Rodham first approached Bruce Lindsey regarding the Vignali case. It appears that Lindsey was Rodham's main White House contact. Chief of Staff John Podesta testified that he did not know Hugh Rodham was advocating Carlos Vignali's petition. White House Counsel Beth Nolan equivocated about her knowledge of Hugh Rodham's involvement. Specifically, Nolan answered, "I don't think I knew that, but I may have known that."²⁷⁸ Lindsey explained his interactions with Rodham in the Committee's March 1, 2001, hearing:

Mr. Rodham called to ask me to take a look at a commutation application for Carlos Vignali, indicated that he was a first-time offender, that his application was supported by the Sheriff of Los Angeles County, that it was supported by the U.S. Attorney in Los Angeles.

* * *

[H]e also told me it was supported by the trial attorney who actually tried the case in Minnesota. That turned out probably not to be correct.

* * *

[He] [t]old me it was supported by the U.S. Attorney in Los Angeles, by the Sheriff of Los Angeles County, by the Cardinal Archbishop Diocese and Archdiocese in Los Angeles, Cardinal Mahoney, by several Congressmen, former Congressmen, city council people. . . . I indicated to him that it was – that he had served six years approximately. I indicated to Mr. Rodham that that was the kind of application the President actually was interested in looking at. He was

In an interview with Committee staff, Valenzuela did not know that his name had been put on the checks until after it was done and, in any case, never came into possession of any of the money. Telephone Interview with Luis Valenzuela, Vice President, NAI Capital Commercial Real Estate Services (Oct. 30, 2001). But, Valenzuela speculated that his name appeared on both instruments because Vignali probably intended for him to act as an escrow agent for the money if/when Carlos Vignali was released. According to Valenzuela, this was probably done "so the representation could be made to [Hugh Rodham] that the money was in escrow." Valenzuela believes that such a representation was made only because "[Horacio] is a very cautious guy." Valenzuela believes that he was designated as an escrow agent without having been notified only because he and Horacio are "like brothers."

²⁷⁶ NARA Document Production (Letter from Horacio Vignali to Hugh Rodham (Dec. 9, 2000)) (Exhibit 14).

²⁷⁷ *Id.*

²⁷⁸ "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Congress 412 (Mar. 1, 2001).

interested in looking at first-time drug offenders who did not play major roles in the crime and that we would take a look at it.²⁷⁹

Based on Bruce Lindsey's testimony, in his initial presentation to Lindsey, Rodham made a number of serious misrepresentations. First, he claimed that Vignali was a first-time offender. As described above, this is plainly false because Vignali had two prior convictions and two other arrests. In addition, Vignali was an admitted gang member. Second, when Rodham told Lindsey that Vignali was a "first-time drug offender who did not play a major role in the crime," Rodham misstated the case against Vignali. As explained above, Vignali was a major source of cocaine and was sentenced accordingly. Third, Rodham informed Lindsey that the Vignali petition was "supported by the trial attorney who actually tried the case in Minnesota." While Lindsey could bring himself only to concede that Rodham's statement was "probably not correct," it is, in fact, utterly false.²⁸⁰ The only question is whether Rodham's lie was his own creation, calculated to mislead the White House or whether he was fed the lie by the Vignalis or others working on their behalf. Rodham's lie regarding the position of the Minnesota U.S. Attorney's office was no small matter. It was apparently passed on by Lindsey to Meredith Cabe and Eric Angel, the White House lawyers working on the pardon. Both noted they had originally believed that the prosecutors supported the commutation and then learned that their information was not accurate.²⁸¹ Rodham's misinformation also found its way into White House documents analyzing the Vignali matter. In a chart dated January 9, 2001, a White House staffer stated that "acc. to representatives, U.S. Atty in Minneapolis (who prosecuted him) supports [clemency]."²⁸²

After Lindsey spoke to Rodham, Lindsey referred the Vignali matter to Meredith Cabe, the Associate White House Counsel responsible for clemency issues. Cabe conducted a brief review of the two-page clemency petition but did not read any of the appendices submitted with the petition.²⁸³ Cabe also stated that she frequently received materials from Lindsey regarding the Vignali case.²⁸⁴ Presumably, Lindsey received these materials from Hugh Rodham and other outsiders interested in the Vignali case.

Despite Hugh Rodham's efforts to mislead, the White House was able to obtain accurate information about Carlos Vignali. Thanks to the Pardon Attorney, the White House learned that Carlos Vignali had prior convictions and that the U.S. Attorney in Minnesota opposed his commutation. However, it is surprising that having caught Hugh Rodham providing patently false information, the White House staff would go ahead and recommend that Rodham's client receive a commutation anyway.

²⁷⁹ *Id.* at 361-62.

²⁸⁰ There are only three possible prosecutors Rodham could have been referring to: Todd Jones, Andrew Dunne, or Denise Reilly. Committee staff interviewed Jones and Reilly, and they were strongly opposed to the commutation. Committee staff were not able to interview Dunne, but Jones informed Committee staff that Dunne helped him prepare the Minnesota U.S. Attorney Office's formal opposition to the Vignali commutation. Therefore, it is certain that he opposed the commutation as well. It is clear now that no attorney involved in prosecuting Vignali supported the commutation, and it was just as clear when Hugh Rodham made his misrepresentation to the White House.

²⁸¹ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

²⁸² NARA Document Production (chart of former Associate White House Counsel Eric Angel) at 6 (Exhibit 38).

²⁸³ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

²⁸⁴ *Id.*

3. The Justice Department's Input on the Vignali Case

Long before the Vignali case was brought to the White House's attention by Hugh Rodham, staff in the Justice Department Pardon Attorney's office had been considering the Vignali petition. The petition was initially filed with the Department in August 1998. Some point after that date, the Pardon Attorney's office conducted a background investigation of Vignali. Such a report would typically involve contacts with the prosecutors and FBI, a review of a report from the Bureau of Prisons, the presentence report, and the judgment and commitment order.²⁸⁵ In the fall of 2000, the Pardon Attorney forwarded a draft report to the Deputy Attorney General recommending the denial of Vignali's clemency petition. A staff member of the Deputy Attorney General would typically review the Pardon Attorney's recommendation and provide the Pardon Attorney's recommendation and her own comments to the Deputy Attorney General for his review. The Deputy Attorney General could then sign off on the Pardon Attorney's recommendation and provide it to the President for his consideration.

However, the usual Justice Department process was not followed in the Vignali case. In November 2000, the White House instructed the Deputy Attorney General's office to stop sending recommendations for clemency denials to the President.²⁸⁶ The White House told the Deputy Attorney General's office that it was interested in favorable clemency recommendations, specifically favorable pardon recommendations, and to place a priority on forwarding such favorable recommendations to the White House.²⁸⁷ As a result of this directive, the Deputy Attorney General stopped forwarding to the White House negative clemency recommendations prepared by the Pardon Attorney.²⁸⁸

This was almost the fate of the Pardon Attorney's report regarding Carlos Vignali. At some point in the fall of 2000, the Pardon Attorney prepared a report that strongly recommended against the Vignali commutation.²⁸⁹ The report was forwarded to the Deputy Attorney General's office, where it was reviewed by Deborah Smolover, the Associate Deputy Attorney General responsible for supervision of the Office of the Pardon Attorney. Smolover stated that the Vignali report was not signed off on by the Deputy Attorney General or forwarded to the White House because it fell into the category of reports that the White House staff had earlier said it did not want to receive – negative clemency recommendations.²⁹⁰ However, after an inquiry from the Pardon Attorney, Roger Adams, Smolover sent the Vignali report back to Adams and told him that he could sign off on the memo and send it to the White House.²⁹¹ Adams believed it was important for the Justice Department to be on the record as opposed to the Vignali commutation, so he signed the memo and sent it to the White House on January 12, 2001.²⁹²

The failure of the Deputy Attorney General to sign off on the recommendation against the Vignali commutation is disturbing. Deborah Smolover could not recall any cases other than

²⁸⁵ Interview with Deborah Smolover, Associate Deputy Attorney General, Department of Justice (Mar. 12, 2001).

²⁸⁶ *Id.*

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ Interview with Roger Adams, Pardon Attorney, Department of Justice (Feb. 27, 2001).

²⁹² *Id.*

Vignali's where the Pardon Attorney, rather than the Deputy Attorney General, signed off on a recommendation memorandum.²⁹³ Moreover, she did not ascribe any significance to the fact that Pardon Attorney Roger Adams, rather than Eric Holder, signed it. However, Roger Adams stated that Holder refused to sign two or three denial recommendations because he "didn't want to sign any more denials."²⁹⁴ But, Smolover stated that Holder would not have allowed Adams to send any recommendation with which he did not agree to the White House.²⁹⁵ In addition, Smolover could not offer any reasonable explanation why Holder refused to sign the denial recommendation at issue but allowed Adams to send it to the White House under Adams' own signature. In the Marc Rich case, Holder's actions made it clear that he was attempting to please his superiors in the White House while trying to maintain some credibility as a prosecutor serious about law and order. He failed miserably in the Rich case, first by failing to warn prosecutors that the Rich case was being considered and then by taking the position that he was "neutral, leaning towards favorable" on the pardon if it helped the Middle East peace process. It appears that Holder took a similarly irresolute position in the Vignali case – allowing his subordinate to oppose the Vignali commutation while refusing to go on the record against a commutation the President apparently wanted to grant and the President's own brother-in-law supported.

The report recommending against the Vignali commutation was an important one. For the first time, it made the White House aware of a number of key facts in the Vignali case,²⁹⁶ including Vignali's role in the offense and the basis for his sentencing. Adams pointed out that Vignali had two prior convictions and two prior arrests and that he had not disclosed the arrests on his petition, as was required. Adams included in his report the opposition of the Minnesota U.S. Attorney's Office:

United States Attorney B. Todd Jones strongly opposes clemency for petitioner, noting that petitioner's persistent claims of innocence are undermined by [the] strength of the evidence presented against him:

Th[e] testimony [of the cooperating coconspirators] was consistent and independently corroborated by Title III wiretap interceptions, search warrant evidence and police surveillance. The evidence clearly established that Carlos Vignali, Jr., was a member of the charged drug conspiracy and facilitated the distribution of narcotics in the Twin Cities by supplying Evans, Williams and Hopson with substantial quantities of cocaine from Los Angeles, California.

²⁹³ Interview with Deborah Smolover, Associate Deputy Attorney General, Department of Justice (Mar. 12, 2001).

²⁹⁴ Interview with Roger Adams, Pardon Attorney, Department of Justice (Feb. 27, 2001).

²⁹⁵ Interview with Deborah Smolover, Associate Deputy Attorney General, Department of Justice (Mar. 12, 2001).

²⁹⁶ NARA Document Production (Report to the President on Proposed Denial of Executive Clemency for Carlos Anibal Vignali, Jr. (Jan. 12, 2001)) (Exhibit 4). Adams noted that "Petitioner's defense counsel used th[e] fact [that he was the sole Hispanic charged] to argue his client's innocence to the jury, characterizing the case as involving a 'black drug dealing network,' and emphasizing that petitioner was not black."

Mr. Jones noted that the two main cooperating coconspirators, Williams and Evans, received sentences of 180 months and 95 months respectively. He concluded by stating:

The sentence imposed by Judge Doty reflects the seriousness of the defendant's role in a large scale narcotics conspiracy as the California source of cocaine to Evans, Williams, and Hopson. To my knowledge Vignali has refused to accept personal responsibility for his criminal activities and has never expressed sincere remorse for his conduct. In light of the exacting standards generally applicable in pardon cases, this case does not warrant such a commutation.²⁹⁷

After quoting the Minnesota U.S. Attorney, Roger Adams offered his position on the Vignali commutation:

In applying for clemency, petitioner has to a large degree merely recycled arguments already rejected by the jury and courts. He continues to deny his guilt, and his petition contains misleading statements and misstatements of fact. As for his allegation that he has no connection to Minnesota, the jury convicted him of the offense of supplying large quantities of cocaine to distributors in that state. Moreover, his contention that his sentence is excessive fails in light of the sentencing record, which establishes that the district court accorded him leniency in refusing to adopt two enhancements recommended by the presentence report. For all these reasons, I recommend that you deny his petition.²⁹⁸

It appears that the Pardon Attorney's report had an impact on the White House staff. Next to the portion of the report discussing Judge Doty's sentence of Vignali, a White House staffer wrote a note reading, "He recommended other cases – was he contacted?"²⁹⁹ Apparently, members of the White House staff were aware that Judge Doty recommended commutations for Serena Nunn and Kim Willis, making his opposition to the Vignali commutation even more significant. Despite this inquiry from a White House staffer, Judge Doty was never contacted. More importantly, at the end of Roger Adams' report, a White House staffer wrote, "Need to XC for Bruce. Definitely isn't simply making a loan – & do we believe the gang thing? USA is actually against – maybe we shd call & ck the recs we've been told of?"³⁰⁰ Apparently, the report dispelled any beliefs the White House might have had regarding Carlos Vignali's story that the \$25,000 he had been paid was simply payback on a loan he had made to friends. The notation "USA is actually against – maybe we shd call & ck the recs we've been told of" indicates that the Adams report was the first clear enunciation received by the White House that the Minnesota U.S. Attorney was actually opposed to the commutation. It also indicates that learning of this fact cast some doubt on other information that had been shared with the White House, likely by Hugh Rodham. Despite the clear doubts expressed by the White House

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Id.*

staffer's notes on the Adams memo, apparently little was done to follow up on those doubts. The White House staff never followed up with either the prosecutors or the judge in the Vignali case.

4. The Final Decision on the Vignali Commutation

a. Contacts Between the White House and Interested Parties

In addition to reviewing the Pardon Attorney's comments on the Vignali commutation petition, White House staff contacted a number of individuals regarding Vignali. First, Meredith Cabe recalls that Representative Xavier Becerra was advocating for the Vignali commutation.³⁰¹ According to other White House staff, Representative Becerra "peppered" the White House with calls on Vignali's behalf.³⁰² Together with her colleague Eric Angel, Cabe also spoke to U.S. Attorney Alejandro Mayorkas. According to Cabe, Mayorkas said he supported the petition but admitted he was not familiar with the details of the case.³⁰³ Cabe also recalls that Mayorkas stated that most drug sentences were disproportionate and that this one likely was as well.³⁰⁴ Eric Angel recalls that Mayorkas expressed support for the Vignali family and opined that Carlos Vignali would have a strong support network if he were released. Angel also recalled that Mayorkas made general comments about the length of Vignali's sentence and a statement to the effect that "a lot of these sentences are too long and this one was long too."³⁰⁵

In an interview with Committee staff, Dawn Woollen, Deputy White House Counsel Bruce Lindsey's administrative assistant, conceded that she wrote a note to Lindsey that indicated, among other things, that "Sheriff Baca from LA is more than happy to speak with you about him but is uncomfortable writing a letter offering his full support."³⁰⁶ According to Woollen, her note reflected a telephone conversation with Hugh Rodham around early January 2001.³⁰⁷ Within a week of having spoken with Hugh Rodham, Woollen "very briefly" spoke to Sheriff Baca about the Vignali matter.³⁰⁸ Originally, Sheriff Baca left a telephone message for Lindsey, but, as per Lindsey's request, Woollen returned Baca's call.³⁰⁹ During that conversation, according to Woollen, Sheriff Baca "expressed his support for the Vignali commutation."³¹⁰ According to Woollen, Baca also told her he was uncomfortable writing a letter offering his full support for the petition but did not say why.³¹¹

³⁰¹ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³⁰² Richard Serrano and Stephen Braun, *Working the American System*, L.A. TIMES, Apr. 29, 2001, at A1.

³⁰³ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³⁰⁴ *Id.*

³⁰⁵ Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

³⁰⁶ Interview with Dawn Woollen, Administrative Assistant to Deputy White House Counsel Bruce Lindsey, the White House (Sept. 25, 2001). NARA Document Production (Handwritten Note from Woollen to Lindsey) (Exhibit 22).

³⁰⁷ Interview with Dawn Woollen, Administrative Assistant to Deputy White House Counsel Bruce Lindsey, the White House (Sept. 25, 2001).

³⁰⁸ *Id.* This conversation with Sheriff Baca was the witness' only conversation with Sheriff Baca about the Vignali clemency matter.

³⁰⁹ *Id.*

³¹⁰ *Id.* With Committee staff, Woollen was unequivocal about her understanding about Baca's support for the petition. When asked by Committee staff what the specific basis was for her understanding as to Baca's position, Woollen replied, "Sheriff Baca said that he supported [the commutation]." Woollen further stated that "it was clear that Sheriff Baca was supporting the commutation."

³¹¹ *Id.*

Contrary to statements Baca has made to this Committee, according to Woollen, at no point during his conversation with her did he say that he was unfamiliar with the facts associated with Vignali's clemency petition or cite any unfamiliarity with the underlying conviction as a basis for not commenting on Vignali's clemency petition.³¹² Finally, according to Woollen, Sheriff Baca did not express any support for Carlos Vignali's father or even mention the name "Horacio."³¹³ The degree to which Baca and Woollen disagree about the nature of their conversation gives rise to serious concern.

Despite the general nature of the White House's discussions with Mayorkas and Baca, their support has been described as being important in the decision to grant clemency to Vignali. Cabe understood the qualifications offered by Mayorkas but still viewed his support as "significant" because "few prosecutors advocate clemency in any form."³¹⁴ Similarly, Bruce Lindsey stated:

I originally was probably negative. . . . But after I received a call from the sheriff of Los Angeles and our office reached out to the U.S. Attorney in the central district of California and Los Angeles, I decided that given the community support and their position that into the county in which he would go to live, that they would be aware of the crime situation, if you will, in their community, and if they were not concerned about him coming back to their community, that I thought it was an appropriate commutation.³¹⁵

The White House's reliance on the support for the commutation voiced by Baca and Mayorkas should be juxtaposed against the fact that the White House made no attempt to speak to the prosecutors or judge involved in the Vignali case. Judge David Doty, who sentenced Vignali, has stated that he was surprised by the commutation³¹⁶ and that, if the White House had contacted him, he would have argued against a commutation for Vignali.³¹⁷ Judge Doty believes Vignali was an unsuitable candidate for clemency first because his sentence was appropriate: "Carlos deserved what he got . . . I hit him in the middle, not in the low end. . . . And I didn't max him out."³¹⁸ Judge Doty also noted that Vignali was not a small-time offender: "[He] provided funds to the conspiracy, provided places and was involved in the direct transfers.... He was a big player. He was one of the top two or three defendants."³¹⁹ Judge Doty also pointed out that Carlos Vignali had never admitted his crime, noting that Vignali "was non-repentant Even after I sentenced him, he claimed he had been railroaded."³²⁰ Judge Doty's strong position

³¹² *Id.*

³¹³ *Id.*

³¹⁴ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³¹⁵ "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Congress 426 (Mar. 1, 2001).

³¹⁶ *Los Angeles Cardinal Regrets Role in Pardon*, N.Y. TIMES, Feb. 13, 2001, at A26.

³¹⁷ "Drug Kingpin's Release Adds to Clemency Uproar," L.A. TIMES, Feb. 11, 2001, at A1.

³¹⁸ Bob von Sternberg and Pam Louwagie, *Judge Who Sentenced Dealer in Minnesota Questions Clemency*, STAR TRIB. (Minneapolis, MN) Feb. 15, 2001, at A1.

³¹⁹ Richard Serrano and Stephen Braun, *Vignali Case Built on Informants, Wiretaps*, L.A. TIMES, Feb. 15, 20001, at A1.

³²⁰ Richard Serrano and Stephen Braun, *Drug Kingpin's Release Adds to Clemency Uproar*, L.A. TIMES, Feb. 11, 2001, at A1.

against the Vignali commutation is even more significant given his longstanding opposition to mandatory minimum sentences for drug offenses and his support for clemency for two other drug offenders he had sentenced.³²¹

Similarly, the White House never consulted the lawyers who prosecuted Vignali. Meredith Cabe stated that she did not consult with the prosecutors because the Justice Department had already been in contact with them and their position on the commutation was already clear. However, Cabe's explanation is less than satisfactory. Just because the White House knew that the prosecuting office opposed a grant of clemency for Vignali did not eliminate the need to actually speak to the prosecutors who had tried the case. If the White House staff had discussed the grant of clemency with the U.S. Attorney or his staff, it is possible that the prosecutors could have explained the scope of Vignali's drug-dealing activities, his utter lack of remorse, or the suspicions regarding his other drug-dealing activities or those suspected of his father.

b. Contacts Between the White House and Hugh Rodham

In the final days of the Clinton Administration, it appears that Hugh Rodham had several contacts with White House staff about the Vignali matter. Rodham spoke to Bruce Lindsey twice more about Vignali after his initial conversation in December 2000 and Meredith Cabe once about Vignali. Rodham's counsel described the two subsequent contacts with Bruce Lindsey as follows: "he subsequently submitted and discussed letters of recommendation, and he made a final follow up inquiry."³²² Meredith Cabe stated that Rodham called her about the Lums, for whom Rodham had been requesting executive clemency, and brought up Vignali.³²³ Cabe recalled that Rodham was concerned that the White House was getting bad information about Vignali and believed that someone had accused Vignali of being in a gang.³²⁴

No one on the White House staff has made it clear how Rodham's lobbying was viewed by the President or his staff. In their defense, White House staff have claimed that they never figured out that Rodham represented Vignali or was receiving a large fee from Vignali for his work. When questioned in a Committee hearing, Lindsey was vague about whether the President was informed about Rodham's role in the Vignali matter:

Mr. LaTourette: I am interested in what took place in front of the President, and the meeting that you remember, Ms. Nolan, whether these guys were there or weren't there, was the fact that Hugh Rodham

³²¹ Bob von Sternberg and Pam Louwagie, *Tale of a Prodigal Father*, STAR TRIB. (Minneapolis, MN) Feb. 18, 2001, at A1; Bob von Sternberg and Pam Louwagie, *Judge Who Sentenced Dealer in Minnesota Questions Clemency*, STAR TRIB. (Minneapolis, MN) Feb. 15, 2001, at A1. Judge Doty wrote in support of grants of clemency for Serena Nunn and Kim Allen Willis, two small-time drug offenders who had been sentenced to 15 year terms in prison. Judge Doty as well as prosecutors and investigators involved in the Nunn and Willis cases agreed that they were truly low-level drug offenders who had been caught up in a larger conspiracy and were suitable candidates for clemency.

³²² Letter from Nancy Luque, Counsel for Hugh Rodham, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 28, 2001) at 2 (within Appendix I).

³²³ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³²⁴ *Id.*

was advocating this position, or was advocating that Mr. Vignali receive a pardon [or] commutation, was that discussed in your presence? Was Hugh Rodham's name invoked to the President of the United States in this meeting?

Ms. Nolan: I don't know, Mr. LaTourette.

Mr. LaTourette: How about you, Mr. Lindsey?

Mr. Lindsey: I don't recall. I don't have a specific memory of mentioning it. I wouldn't have hesitated to mention it. I just don't recall.

Mr. LaTourette: You don't remember. How about you, Mr. Podesta?

Mr. Podesta: With the caveat that I gave earlier, in the meeting I was in where Vignali was discussed, Mr. Rodham's name did not come up.³²⁵

The hazy recollection of senior White House staff therefore makes it impossible to know whether Rodham's name was invoked in the discussions that White House staff had with the President.

c. Hugh Rodham's Invocation of First Lady Hillary Clinton

One critically important document makes it clear that, at a minimum, Hugh Rodham invoked the First Lady's name in lobbying for Vignali's commutation. That document, a note handwritten by Dawn Woollen, the administrative assistant of Deputy White House Counsel Bruce Lindsey, states, "Hugh says this is very important to him and the First Lady as well as others. Sheriff Baca from LA is more than happy to speak with you about him but is uncomfortable writing a letter offering his full support."³²⁶

In an interview with Committee staff, Woollen recalled having spoken with Hugh Rodham about the Vignali matter on at least five occasions.³²⁷ After one such conversation, around early January 2001, Woollen wrote the previously described note to Lindsey.³²⁸ When presented with that note during her interview with Committee staff, Woollen confirmed that the note was accurate.³²⁹ But, independent of what she wrote on the note, Woollen could not recall what Rodham said about the First Lady's knowledge of the Vignali issue.³³⁰

³²⁵ "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Congress 412 (Mar. 1, 2001).

³²⁶ NARA Document Production (Handwritten Note from Dawn Woollen, Administrative Assistant to Deputy Chief of Staff Bruce Lindsey, the White House, to Bruce Lindsey, Deputy Chief of Staff, the White House) (Exhibit 22).

³²⁷ Interview with Dawn Woollen, Administrative Assistant to Deputy Chief of Staff Bruce Lindsey, the White House (Sept. 25, 2001). All of those conversations took place over the phone. *Id.*

³²⁸ *Id.*

³²⁹ *Id.*

³³⁰ *Id.*

At the very least, Woollen's note reflects attempts by Hugh Rodham to capitalize financially on his association with the First Family by invoking his sister's support for the Vignali petition without her knowledge. After Hugh Rodham's role in clemency proceedings pending before President Clinton was publicly disclosed, Senator Hillary Rodham Clinton asserted that she "knew nothing about [her] brother's involvement in these pardons" and that she "did not have any involvement in the pardons that were granted or not granted."³³¹ In fact, when Senator Clinton was asked by the media about pardons President Clinton granted in the final hours of his administration, she replied, "I was very disturbed to learn that my brother, Hugh Rodham, received fees in connection with two clemency applications. . . . Hugh did not speak with me about these applications."³³² When asked about President Clinton's last-minute pardons generally, she stated, "you'll have to talk with people who were involved in making them, and that leaves me out."³³³ Indeed, according to Senator Clinton, her involvement in pardon matters pending before the President was limited to passing on "envelopes" that were given to her.³³⁴ The Woollen note leaves only two possibilities: (1) that Hugh Rodham indeed told Hillary Clinton about his efforts on behalf of Carlos Vignali and that Hillary Clinton was not being candid when she stated that Hugh did not speak to her about Vignali; or (2) Hugh Rodham was lying when he told Woollen that the Vignali case was "very important" to the First Lady. The first possibility raises serious questions about the conduct of the former First Lady, and the second possibility raises serious questions about the conduct of Hugh Rodham.

d. The President's Decision to Grant the Commutation

White House staff have been vague in describing the process the Vignali commutation went through. Cabe indicated that staff had a mixed opinion regarding the Vignali case until the end of the process, when they were all in agreement to recommend Vignali for a commutation.³³⁵ White House documents seem to confirm vacillation in the White House's position on the matter. One document about the Vignali case states, "Lean no,"³³⁶ and another states, "STAFF: mixed(?)"³³⁷ Cabe also indicated that Vignali was considered together with a number of other drug cases in which the defendant had been "oversentenced."³³⁸ Cabe recalls that others in this group were Lau Ching Chin, Derek Curry, Peter Ninemire, and Loretta De-Ann Kaufman.³³⁹ These parts of Cabe's recollection are confirmed by documents. A chart of potential pardons and commutations maintained by Associate White House Counsel Eric Angel with the heading "Disparate Sentencing Commutation Cases" includes Vignali's name with the notations:

³³¹ Sumana Chatterjee, *Hillary Clinton Addresses Pardons Involving Brother, Campaign Aide*, KNIGHT RIDDER (Washington Bureau) Feb. 23, 2001.

³³² James V. Grimaldi and Peter Slevin, *Hillary Clinton's Brother Was Paid for Role in 2 Pardons*, WASH. POST, Feb. 22, 2001, at A1.

³³³ Jackie Judd, *Senator Hillary Clinton Answers Questions About Her Brother's Involvement in Two Presidential Pardons*, ABC World News Tonight, Feb. 22, 2001.

³³⁴ Sumana Chatterjee, *Hillary Clinton Addresses Pardons Involving Brother, Campaign Aide*, KNIGHT RIDDER (Washington Bureau) Feb. 23, 2001.

³³⁵ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³³⁶ NARA Document Production (chart of "Disparate Sentencing Commutation Cases") at 21 (Exhibit 39).

³³⁷ NARA Document Production (alternate chart of "Disparate Sentencing Commutation Cases" at 11 (Exhibit 40).

³³⁸ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

³³⁹ *Id.*

Arg is he is not guilty – loaned \$25K to a friend, which he args was falsely interpreted to be part of drug conspiracy; aged 24 at time of offense, with no significant criminal record; args he had minor role; DOJ states that petitioner was supplier for major cocaine distribution organization and has two 1989 convictions for fighting in public place and vandalism; 1990 arrest for corporal injury to spouse or cohabitant, dismissed. DOJ says U.S. Attorney strongly opposes. DOJ recommends denial.³⁴⁰

A separate column of Angel's chart discusses who supported the Vignali commutation:

Reps. Becerra, Torres ask for "every consideration" because parents are friends; Council of CA State Legislators also ask for consideration; Archbishop of LA supports; acc. To representatives, U.S. Atty in Minnesota (who prosecuted him) supports; LA Sheriff Lee Baca and LA US Atty Alejandro Mayorkas support; Maria E[chaveste] has inquired.³⁴¹

Given President Clinton's silence regarding his pardons and commutations, it is impossible to know which factors led to his decision to commute Vignali's sentence. Clearly, there were a number of outside factors contributing to the President's decision: a White House staff generally supportive of the decision; pressure, including misleading statements, from Hugh Rodham; and pressure from California political figures. On January 20, 2001, President Clinton commuted Carlos Vignali's sentence to time served, reducing his 15-year sentence to only about 5 years.

5. The White House Has No Justification for the Vignali Commutation

The process by which the President actually reached the decision to grant the Vignali commutation is still a mystery. Apparently, the President did not reach his decision to grant the commutation until January 19, after a meeting with his staff. Since the President has never answered questions about the Vignali matter, the Committee has not been able to determine which facts influenced his decisionmaking. The President's failure to speak out on the Vignali matter leaves a number of key questions unanswered:

- To what extent did Hugh Rodham's representation of Carlos Vignali play a role in the President's decision to grant Vignali's commutation?
- Did First Lady Hillary Rodham Clinton support the effort to obtain the Vignali commutation?
- Did the President or the First Lady know that Rodham was being paid \$200,000 for obtaining the Vignali commutation?
- When did the President make the decision to commute Vignali's sentence and why?

³⁴⁰ NARA Document Production (Exhibit 39).

³⁴¹ *Id.*

In the absence of answers to these questions, the Committee must examine the arguments offered by the White House to justify the Vignali commutation. These arguments, set forth below, are all spurious.

“*Vignali was a minor participant in a large drug conspiracy.*” It appears that the White House based its decision on the belief that Vignali was only a minor participant in the Minnesota-area drug dealing scheme. As Lindsey testified before the Committee:

I actually believe the judge made a specific finding that [Carlos Vignali] was responsible for five to 15 kilos, which is I think 11 to 33 pounds. I think the total amount of money he was involved with was \$2,500 - \$25,000 excuse me. So I don't think it is correct that he was responsible for \$800,000; and in fact, I believe there was a specific finding that he was not. There was also I believe a specific finding that he was not an organizer, leader of the conspiracy.³⁴²

In applying the federal sentencing guidelines to Vignali's case, Judge Doty indeed attributed five to fifteen kilograms of cocaine to Vignali, rather than the fifteen to fifty kilograms suggested in the pre-sentence report.³⁴³ Judge Doty nevertheless enhanced Vignali's offense level because he found that Vignali committed perjury by denying that he was involved in the distribution of cocaine.³⁴⁴ The judge also concluded that Vignali's role as a supplier of cocaine tended to make him more culpable than other co-defendants.³⁴⁵ These conclusions led the judge to give Vignali a sentence on the upper end of the guideline range.³⁴⁶ Therefore, Bruce Lindsey's heavy reliance on Judge Doty's finding that Vignali was responsible for only five to fifteen kilograms of cocaine appears highly disingenuous. Indeed, Judge Doty sentenced Vignali to 175 months imprisonment despite his belief that the evidence adduced at trial supported a finding that Vignali supplied between five and fifteen kilograms of cocaine. Lindsey completely ignored the judge's finding that Vignali perjured himself when he denied any involvement in supplying narcotics. For Lindsey to accept that Vignali was responsible for supplying between five and fifteen kilograms of cocaine would have required that Lindsey accept that Vignali perjured himself at trial and refused to accept responsibility for what he had done. It is difficult to believe that Lindsey would recommend that such a person be granted executive clemency.³⁴⁷

The White House's reliance on Judge Doty's findings regarding the amount of cocaine Vignali supplied was irresponsible and misleading for another reason. The judge's finding was a

³⁴² “The Controversial Pardon of International Fugitive Marc Rich,” *Hearings Before the Comm. on Govt. Reform*, 107th Congress 362 (Mar. 1, 2001).

³⁴³ Judgment in a Criminal Case, *U.S. v. Vignali* (D. Minn. July 17, 1995) (Exhibit 3).

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ *Id.*

³⁴⁷ Judge Doty was never contacted by the White House about Vignali's clemency application. *L.A. Cardinal Regrets Role in Pardon*, N.Y. TIMES, Feb. 13, 2001, at A26; Richard A. Serrano and Stephen Braun, *Drug Kingpin's Release Adds to Clemency Uproar*, L.A. TIMES, Feb. 11, 2001 at A1. Referring to the Vignali commutation, Judge Doty stated “I have no idea why it happened, but we are all aghast.” *Los Angeles Cardinal Regrets Role in Pardon*, N.Y. TIMES, Feb. 13, 2001 at A26. According to Judge Doty, Carlos Vignali never acknowledged responsibility or showed remorse for his crime, “He was non-repentant . . . Even after I sentenced him, he claimed he had been railroaded.” Richard A. Serrano and Stephen Braun, *Drug Kingpin's Release Adds to Clemency Uproar*, L.A. TIMES, Feb. 11, 2001 at A1.

highly technical decision relating to the offense level computed under the Federal Sentencing Guidelines. Under those guidelines, a different base offense level is applied if the offender supplies between 5 and 15 kilograms of cocaine than if he deals between 15 and 50 kilograms of cocaine. When deciding whether to grant Vignali's clemency request, one would think the White House would be more interested in an evaluation of who Vignali was and what he was doing in a generalized sense than in trying to defeat a technical application of the sentencing guidelines. If the White House had wanted such an evaluation, it could have turned either to the Pardon Attorney's recommendation or the submission of the U.S. Attorney in Minnesota. In his submission, U.S. Attorney Todd Jones explained that Vignali was involved in a far larger network of drug dealing than that which was alleged in the case against Vignali in Minnesota. As former U.S. Attorney Todd Jones noted in an interview with the Committee, "the fact the Vignali was convicted as a Category 1 dope dealer doesn't mean that he's innocent, just that he was smart."³⁴⁸

"Vignali's sentence was disproportionate in comparison to his co-conspirators." In testimony before the Committee and in various public statements, the White House has argued that the leniency granted to similarly situated codefendants provided a basis for the President's grant of clemency to Carlos Vignali. This position is wholly without merit. A number of Carlos Vignali's co-conspirators received leniency because they, unlike Vignali, cooperated with law enforcement. Vignali, on the other hand, took his chances with the jury and lost, receiving 175 months in prison. A brief review of the sentences given to other major defendants in the Vignali case demonstrates that Vignali's sentence was fair and proportionate.

- Gerald Williams: Williams was convicted of conspiring to distribute cocaine. Judge Doty found that he was the main distributor, organizer, and leader of the drug conspiracy. The government recommended an imprisonment term of 360 months to life, but Williams received a sentence of 120 months. Judge Doty departed from guideline range because of "substantial and valuable assistance" Williams provided to law enforcement in breaking up the distribution ring.
- Dale Evans: Evans was convicted of conspiring to distribute cocaine. Evans was a California source to distributors in Minnesota. At trial, Evans testified that he was sending an average of one to two kilos of cocaine to Minnesota per week during 1993. Evans obtained that cocaine from Jonathan Gray and Vignali. The government recommended an imprisonment term of 135-168 months, but Evans received a sentence of 95 months. Judge Doty departed from the guideline range because Evans provided law enforcement with "substantial and valuable" assistance in breaking up the ring.
- Shirley Williams: Williams was convicted of conspiring to distribute between 15 and 50 kilos of cocaine for finding buyers of cocaine for her son, Gerald. The government recommended a 151-188 month term of imprisonment, but Judge Doty sentenced Williams to 75 months in jail. Judge Doty ordered a downward departure because of the substantial assistance Williams provided law enforcement.

³⁴⁸ Telephone Interview with Todd Jones, Partner, Greene Espel (May 2, 2001).

- **Melvin Campbell:** Melvin Campbell was convicted of using a telephone to conspire in selling cocaine. Campbell was another California source to distributors in Minnesota. He distributed large amounts of cocaine and cocaine paste with Shirley and Gerald Williams and cooked crack for distribution. The government recommended imprisonment for 12-18 months, but Judge Doty sentenced Campbell to 48 months. He ordered an upward departure because of Campbell's significant involvement in the conspiracy, the substantial amount of drugs he distributed, and his criminal history.
- **Jonathan Gray:** Jonathan Gray was convicted of conspiring to distribute more than 5 kilos of cocaine. In 1993, Gray and Vignali supplied cocaine from California to Dale Evans in Minnesota. The government recommended 151-188 months in jail, and Judge Doty sentenced Gray to 170 months. Gray was the defendant most similarly situated to Vignali as he was a California source of cocaine for the Minnesota distribution network and refused to cooperate with law enforcement. Gray's sentence was almost identical to Vignali's.
- **Tony Speank:** Tony Speank was convicted of conspiring to manufacture and distribute between 1.5 and 5 kilos of cocaine and cocaine base. The government recommended a sentence of 210-262 months, but Judge Doty sentenced Speank to 58 months. Judge Doty granted a downward departure because of the "substantial and valuable" assistance Speank provided law enforcement.
- **Todd Hopson:** Todd Hopson was convicted of conspiring to distribute cocaine; using facilities in interstate commerce to promote a drug enterprise; possession with intent to distribute and distribution of more than 5 kilos of cocaine; and use of telephone for promotion of drug enterprise. The government recommended 235-293 months in jail. Judge Doty sentenced Hopson to 235 months imprisonment. Judge Doty found that the low end of the range adequately reflected the nature and circumstances of Hopson's offense and his past criminal conduct.

As shown above, in those cases where Judge Doty exercised leniency in sentencing codefendants who were at least as culpable as was Vignali, Judge Doty specifically found that each of those codefendants provided "substantial and valuable" assistance to law enforcement. By contrast, Carlos Vignali and Todd Hopson, both of whom were charged with conspiring to distribute substantial amounts of cocaine and various other federal narcotics offenses, chose not to cooperate. Furthermore, they failed to express the least remorse about or assume responsibility for their roles in the distribution ring. As such, there could have been no reasonable expectation of leniency from the sentencing judge. Accordingly, the White House's position that Vignali's sentence was overly harsh or disproportionate as compared with his codefendants is wholly without merit. Having thoroughly considered the available evidence, Judge Doty sentenced Vignali under the applicable standards set forth under the law.

"Vignali's sentence was an unfair and overly harsh result of mandatory minimum sentencing laws." Although the rationale for President Clinton's commutation of Carlos Vignali's sentence remains unclear, the former president has said he believes mandatory

sentences “in many cases are too long for nonviolent offenders.”³⁴⁹ Documents and statements obtained by the Committee indicate that the White House considered Vignali’s petition together with a number of other drug cases in which the defendant had been “oversentenced.”³⁵⁰ Associate White House Counsel Meredith Cabe, who was responsible for clemency matters for the White House Counsel’s Office, recalled that others in that group were Lau Ching Chin, Derek Curry, Peter Ninemire, and Loretta DeAnn Kaufman.³⁵¹ Cabe’s appreciation that Vignali’s petition was considered as a “mandatory minimum” case is borne out by a chart of potential pardons and commutations maintained by Associate White House Counsel Eric Angel, who worked with Cabe on clemency matters.³⁵²

U.S. District Judge David Doty, who sentenced Vignali, has long been a critic of mandatory federal sentencing guidelines for drug offenses.³⁵³ In Judge Doty’s view, “most drug sentences are exceedingly long and onerous.”³⁵⁴ But, in Vignali’s case, Judge Doty felt that “Carlos deserved what he got.”³⁵⁵ In explaining the sentence he imposed on Vignali, Judge Doty stated, “I based the sentence on his criminal history score – he didn’t have much. And I kicked it up because of the amount of drugs involved.”³⁵⁶ According to Doty, the sentence he imposed was slightly more than the midpoint of the guideline range.³⁵⁷ Doty observed, “I hit him in the middle, not in the low end And I didn’t max him out.”³⁵⁸

D. The Aftermath of the Vignali Commutation

1. The Response from Hugh Rodham

The Vignali commutation proved to be almost as controversial as the Marc Rich and Pincus Green pardons. News of Hugh Rodham’s involvement in the Vignali matter first surfaced around February 21, 2001. Former President Clinton issued a statement indicating that he and former First Lady Hillary Rodham Clinton were unaware that Hugh Rodham had been paid for his work on the Vignali and Braswell matters: “Neither Hillary nor I had any knowledge of such payments . . . We are deeply disturbed by these reports and have insisted that Hugh return any monies received.”³⁵⁹ Hillary Clinton added, “I was very disturbed to learn that my brother, Hugh Rodham, received fees in connection with two clemency applications[.] Hugh did not speak with me about these applications.”³⁶⁰ Rodham responded to the statement from the former President and Senator Clinton with a statement from his own attorney, Nancy Luque:

³⁴⁹ Bob von Sternberg and Pam Louwagie, *Judge Who Sentenced Dealer in Minnesota Questions Clemency; Clinton Commuted Cocaine Supplier Carlos Vignali’s Sentence*, STAR TRIB. (Minneapolis, MN) Feb. 15, 2001.

³⁵⁰ Interview with Meredith Cabe, former Associate Counsel to President, the White House (Mar. 16, 2001).

³⁵¹ *Id.*

³⁵² See, e.g., NARA Document Production (chart of “Disparate Sentencing Commutation Cases”) (Exhibit 39).

³⁵³ Bob von Sternberg and Pam Louwagie, *Judge Who Sentenced Dealer in Minnesota Questions Clemency; Clinton Commuted Cocaine Supplier Carlos Vignali’s Sentence*, STAR TRIB. (Minneapolis, MN) Feb. 15, 2001.

³⁵⁴ *Id.*

³⁵⁵ *Id.*

³⁵⁶ *Id.*

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ James V. Grimaldi and Peter Slevin, *Hillary Clinton’s Brother Was Paid for Role in 2 Pardons*, WASH. POST (Feb. 22, 2001) at A1.

³⁶⁰ *Id.*

My client, Hugh Rodham, today acceded to his family's request that he return legal fees earned in connection with pardon requests. My client did not advise President or Senator Clinton of his involvement in these requests. He believes they were unaware until this week of his work on his client's behalf. Hugh Rodham has done absolutely nothing wrong. He has returned these fees solely because his family asked that he do so. Their request, presumably made because of the appearance of impropriety, is one he cannot ignore. There was, however, no impropriety in these matters.³⁶¹

Luque's initial statement suggested that Rodham returned all of the fees he was paid for obtaining the Braswell pardon and the Vignali commutation. She soon backtracked, and conceded to the press that he had returned only \$300,000 of the fees.³⁶² The press still reported that Rodham had agreed to refund all \$434,000 he was paid by Braswell and Vignali.³⁶³

However, the Committee's review of Rodham's bank records shows that as of June 2001 Rodham had returned only \$280,000 of the \$434,000 he was paid for his work on the Vignali and Braswell matters. On February 21, 2001, Rodham wrote checks for \$230,000 and \$50,000 to the Coale, Cooley, Leitz, McInerny law firm.³⁶⁴ It appears that the funds were then forwarded by the Coale, Cooley firm to Reed Smith, Nancy Luque's law firm. Then, on February 23, 2001, Reed Smith issued a check for \$230,000 to Glenn Braswell³⁶⁵ and a check for \$50,000 to Morvis Corvis Corporation, one of Horacio Vignali's companies.³⁶⁶ When Luque forwarded the \$50,000 to Vignali, she stated that "a check for the balance will be forwarded directly."³⁶⁷ Communications between Committee staff and Rodham's attorney have confirmed that Rodham has not to date returned any additional amounts and has no plans to return the remaining \$154,000 to Vignali.³⁶⁸

³⁶¹ Statement by Nancy Luque, Counsel for Hugh Rodham, Reed Smith (Feb. 21, 2001).

³⁶² David Johnston, *Hollywood Friend Had Clinton's Ear for 2 Late Pardons*, N.Y. TIMES, (Feb. 24, 2001) at A8.

³⁶³ *Id.*

³⁶⁴ First Union Document Production (Check numbers 1321 and 1322 from Rodham & Fine, P.A. IOTA [sic] to Coale, Cooley Liets, McInerny & Broadus, for \$230,000.00 and \$50,000, respectively) (Feb. 28, 2001)) (Exhibit 41) (*in globo*). John P. Coale, a name partner in Coale Cooley, is a well-known personal injury lawyer with strong ties to the Clinton Administration.

³⁶⁵ Reed Smith Document Production (Check from Reed Smith to Glenn Braswell for \$230,000 (Feb. 23, 2001)) (Exhibit 42).

³⁶⁶ Reed Smith Document Production (Check from Reed Smith to Morvis Corvis Corporation for \$50,000 (Feb. 23, 2001)) (Exhibit 43).

³⁶⁷ Letter from Nancy Luque, Partner, Reed Smith, to Carlos Vignali, Morris [sic] Corvis Corp. (Feb. 21, 2001) (Exhibit 44).

³⁶⁸ In her discussions with Committee staff, Luque indicated that she advised against refunding any of the money and that Rodham did so against her advice. It is also interesting to note that Roger Clinton believes that Hugh Rodham should not have been forced to return the money:

Anyway, Huey [Rodham] has been sort of hung out to dry, and I want to make that clear. He is a great man. I love him. He didn't do anything wrong. But he was just tired of the crap. And tired of the hounding, and he did what he thought it was going to take to get rid of it. You know what? He is a lawyer, he was entitled to do what he wanted to do.

Larry King Live, CNN, June 21, 2001.

Therefore, it appears that Rodham misled the public when he suggested he returned all of the fees when he, in fact, ignored the request from former President Clinton and Senator Clinton that he do so. The lack of any further demands from former President Clinton and Senator Clinton that Rodham return the fees suggests that their initial demand was motivated by media pressure, rather than a genuine sentiment that Hugh Rodham should return the funds.

2. The Florida Bar's "Investigation" of Hugh Rodham

Shortly after news of Rodham's role in the Vignali and Braswell grants of clemency came to light, a complaint was filed against Rodham with the Florida Bar Association. The Florida Bar rules, like those of most other states, prohibit excessive fees and the receipt of contingent fees in criminal cases. Rule 4-1.5(a)(1) states that "[a]n attorney shall not enter into an agreement for, charge, or collect an illegal, prohibited or clearly excessive fee."³⁶⁹ Rule 4-1.5(f)(3)(B) states that a "lawyer shall not enter into an agreement for, charge, or collect . . . a contingent fee for representing a defendant in a criminal case."³⁷⁰

The facts of the Rodham case not being in dispute, it seems that the one issue examined by the Florida Bar was whether Rodham's work constituted "representing a defendant in a criminal case." Indeed, there is mixed opinion regarding how Rodham's work on the pardons should be characterized. Jack Quinn took the position that his lobbying for Marc Rich's pardon did constitute representation in a criminal case and that is why he met the exemption in Executive Order 12834, which otherwise would have prohibited him from lobbying his former colleagues in the White House Counsel's Office. If Quinn's reasoning were to prevail in the Rodham case, it seems clear that Rodham would have violated the Florida Bar Rules against receiving contingent fees in a criminal case. On the other hand, Federal District Court Judge Denny Chin rejected the claims of Jack Quinn and the other Marc Rich lawyers that their work lobbying for the pardons of Rich and Pincus Green were protected by the attorney-client privilege and attorney work product protection. Judge Chin ruled that their work lobbying for a pardon could not be considered legal work entitled to the attorney-client privilege or work product protection.³⁷¹ If Judge Chin's ruling were to be followed by the Florida Bar, it is less likely that Rodham could be sanctioned for violating the Florida Bar rules. However, it is still possible that he could be punished for charging an excessive fee in relation to the amount of work he performed on the pardons.

Rather than conducting a serious inquiry into the facts or the law, it appears that the Florida Bar has declined to look into the Rodham matter at all. On July 16, 2001, the Florida Bar grievance committee voted unanimously to close the Rodham case. In its letter closing the case, the Florida Bar described its investigation and reasons for closing the case. It appears that the investigation consisted solely of reading press accounts of Rodham's involvement in lobbying for pardons and requesting a written response to the allegations from Rodham's counsel.

Roger Clinton has an interesting point insofar as Hugh Rodham was asked to return \$434,000 he earned lobbying for executive clemency when Roger was not asked to return any of the money he earned in connection with the Gambino matter and Jack Quinn was not asked to return fees he earned in connection with the Marc Rich matter.

³⁶⁹ Rule 4-1.5(a)(1), Rules Regulating the Florida Bar.

³⁷⁰ Rule 4-1.5(f)(3)(B), Rules Regulating the Florida Bar.

³⁷¹ *In re Grand Jury Subpoenas* (No. M11-189 (DC)) (S.D.N.Y. Mar. 9, 2001).

The Florida Bar considered first whether Rodham's fees were improper and ruled that they were not for two main reasons. First, it determined that the clemency process was not a judicial proceeding. Contingent fees are prohibited in criminal cases, largely because the "right to competent counsel should not be tied to the compensation paid to the attorney."³⁷² However, the Florida Bar concluded that "clemency is different from other post-conviction avenues of appeal. It cannot be said that, based on existing rules and ethics opinions, accepting a contingency fee for assistance in a clemency proceeding is improper *per se*."³⁷³ Second, it determined that Rodham's fees could not be characterized as "excessive," despite the fact that he was paid \$434,000 for minimal work. The Bar Committee concluded that "it would be highly unusual for The Florida Bar to become involved in a determination of reasonableness of attorney's fees in the absence of a complaint of an interested party, one who actually suffered harm directly. We may consider doing so when a compelling public interest arises . . . [We] did not find a compelling public interest in the matters involved."³⁷⁴

Second, the Florida Bar considered whether Rodham engaged in dishonest conduct in his efforts to obtain the Vignali and Braswell grants of clemency. The Florida Bar concluded:

There has been no evidence presented or made available to The Florida Bar: 1) that Mr. Rodham violated rules or procedures relating to the pardons in question; 2) that monies were intended as improper payment to persons involved in the pardon process; or 3) that there was any other deceit or dishonesty on his part.³⁷⁵

The Bar then noted that it had attempted to obtain information about Rodham from the U.S. Attorney's Office for the Southern District of New York but was declined.³⁷⁶ At no time did the Florida Bar approach this Committee seeking information about Rodham, which would have been shared readily with the Bar.

As this report has made clear, Hugh Rodham engaged in dishonest conduct on a number of occasions with respect to his work on the Vignali commutation. Rodham passed on misleading information to the White House, he made misleading arguments to White House staff about Vignali's case for clemency, and he told outright lies to White House staff, for example, that the attorney who prosecuted Vignali supported his commutation. The Florida Bar should review this report and take appropriate action against Rodham.

3. The Message Sent by the Vignali Commutation

The Vignali commutation will have two practical consequences. First, Carlos Vignali has been released from prison approximately nine years ahead of schedule. There is no evidence that Vignali is reformed or that he has in any way changed his life since being convicted. He has

³⁷² Letter from Barry W. Rigby, Chief Branch Disciplinary Counsel, The Florida Bar, to J. Christian Adams, Counsel, Adams Law Firm (July 16, 2001)) (Exhibit 45).

³⁷³ *Id.*

³⁷⁴ *Id.*

³⁷⁵ *Id.*

³⁷⁶ *Id.*

never admitted his guilt, he has never cooperated with law enforcement, and he has never admitted that he did anything wrong.

However, the Vignali commutation has a significance beyond the early release from prison of an unrepentant cocaine dealer. With his commutation, President Clinton sent a message that there is a double standard of justice between the rich and the poor. Twenty-eight other people were convicted along with Vignali for participating in the cocaine distribution ring. Carlos Vignali was the only person in that distribution ring to receive executive clemency. Yet, other participants in the conspiracy received stiffer prison sentences, despite the fact that they served more minor roles in the conspiracy than Vignali. For example, Todd Hopson was sentenced to over 19 years in prison and is still in prison today. While Hopson was clearly guilty, police have stated that his sentence was excessive.³⁷⁷ After Vignali received his commutation, Hopson observed, “I didn’t pay anybody, I didn’t have anybody walk my application up to the White House and put it in front of the President. I didn’t have those connections.”³⁷⁸ Even Todd Hopson, a convicted cocaine dealer, can understand the message sent by President Clinton: if you can afford to hire the right person – especially a relative of the President – you can get out of prison, even if you are clearly guilty of a serious crime.

The Vignali commutation also sent a message to the nation’s law enforcement officers. Many law enforcement officers risk their lives on a daily basis to stem the flow of illegal drugs into our neighborhoods. Indeed, Carlos Vignali and his 28 co-conspirators were apprehended only after a painstaking investigation that included wiretaps and undercover surveillance. When one of the ringleaders of a cocaine distribution ring receives executive clemency solely because he hired the president’s brother-in-law to represent him, it mocks the efforts of law enforcement and indicates a dangerously lax attitude towards fighting the war on drugs. Tony Adams, the Minneapolis narcotics detective who played a key role in apprehending Vignali and who has risked his life in the line of duty,³⁷⁹ understood the significance of President Clinton’s actions. Adams observed that “it’s like, basically, you’ve just been told that this kid, he’s untouchable.”³⁸⁰ Adams stated that the Vignali commutation “more or less tells us that America’s system has been bought if you have money.”³⁸¹ The bitterness of Adams, and presumably a number of other law enforcement officers, is clear in Adams’ statement that “politicians always get in front of this camera and say ‘We’re trying to take dope off the streets. We’re trying to put dope dealers in jail.’ Well, you just let one out, a big one.”³⁸² Adams suggested that “the politicians in L.A. or Washington, D.C., should finish the nine years that he has left on his time, and I’m standing right by that.”³⁸³

³⁷⁷ Fox Special Report with Brit Hume (Feb. 27, 2001).

³⁷⁸ Richard A. Serrano and Stephen Braun, *Working the American System*, L.A. TIMES, Apr. 29, 2001, at L.A. TIMES MAG. 10.

³⁷⁹ The danger of Adams’ work is underscored by the fact that on April 20, 2001, he was shot at by a suspect.

Adams was unharmed. David Chanen, *Man Fires at Officer, But Nobody is Hurt*, STAR TRIB., Apr. 20, 2001, at 9B.

³⁸⁰ Richard A. Serrano and Stephen Braun, *Working the American System*, L.A. TIMES, Apr. 29, 2001, at L.A. Times Mag. 10.

³⁸¹ Fox Special Report with Brit Hume (Feb. 27, 2001).

³⁸² ABC World News Now (Feb. 23, 2001). See also Duncan DeVille Document Production (Letter from Duncan DeVille, Assistant U.S. Attorney for the Central District of California, Department of Justice, to Alejandro Mayorkas, U.S. Attorney for the Central District of California, Department of Justice (Mar. 2, 2001)) (Exhibit 46) (citing Mayorkas’ assistance in the Vignali matter as the basis for resignation).

³⁸³ Fox Special Report with Brit Hume (Feb. 23, 2001).

II. THE PARDON OF A. GLENN BRASWELL

Another of the recipients of President Clinton's misplaced mercy on his final days in the White House was Almon Glenn Braswell. Braswell was convicted in 1983 of mail fraud, perjury, and tax evasion in connection with selling herbal remedies purporting to encourage hair growth, remove cellulite, and increase breast size.³⁸⁴ More alarmingly, Braswell was under investigation by the Food and Drug Administration, the Federal Trade Commission, the Internal Revenue Service, and several state attorneys general when his pardon was granted.³⁸⁵ In addition, as the President was granting Braswell a pardon, federal investigators in Los Angeles were examining a massive tax evasion and money-laundering scheme allegedly conducted by Braswell.³⁸⁶ How such an unmeritorious application received President Clinton's attention may be explained by a \$230,000 payment from Braswell to Hugh Rodham, the President's brother-in-law.³⁸⁷

A. Braswell's History of Misconduct

In the decades prior to Hugh Rodham's involvement, Braswell created a dietary supplement empire by intentionally misleading consumers with false claims of health benefits.³⁸⁸ These fabricated claims led to Braswell's conviction in 1983 on perjury, tax evasion, and mail fraud charges.³⁸⁹ According to his pardon petition, Braswell was convicted of tax evasion for creating a system in which he would intentionally overpay for corporate services and, in return, receive cash payments that were not reported as income to the IRS.³⁹⁰ With respect to the mail fraud conviction, Braswell devised a scheme to defraud consumers by placing false and misleading advertisements in magazines throughout the United States.³⁹¹ These advertisements depicted phony "before and after" photographs purportedly revealing how Braswell's products promoted hair growth and breast enlargement.³⁹² Mr. Braswell was sentenced to three years' imprisonment and five years' probation for these crimes,³⁹³ but he received parole after serving only seven months in prison.³⁹⁴

³⁸⁴ Douglas Pasternak, *Another Dubious Pardon*, U.S. NEWS & WORLD REP., Feb. 12, 2001, at 26.

³⁸⁵ *Id.*

³⁸⁶ Peter Slevin, *Another Pardon Stirs Controversy; Herbal Marketer Faces U.S. Tax Evasion Probe*, WASH. POST, Feb. 6, 2001, at A3.

³⁸⁷ See Letter from Nancy Luque, Partner, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 28, 2001) (within Appendix I).

³⁸⁸ Kurt Eichenwald and Michael Moss, *Pardon for Subject of Inquiry Worries Prosecutors*, N.Y. TIMES, Feb. 6, 2001, at A1.

³⁸⁹ NARA Document Production (Almon Glenn Braswell's Petition for Pardon (Jan. 12, 2001)) (Exhibit 47).

³⁹⁰ *Id.*

³⁹¹ *Id.* The House Select Committee on Aging held a hearing in 1984 examining the fraudulent claims of dietary supplement marketers such as Braswell. "In Quackery: A \$10 Billion Scandal," *Hearings Before the House Select Committee on Aging, Subcommittee on Health and Long-term Care*, 98th Cong. (May 31, 1984). Regarding Braswell's companies in particular, a Postal Service official testified, "one hundred and thirty-eight false representation complaints were filed against 50 different medical-cosmetic products marketed by Braswell, Inc." *Id.* at 137. The cases were concluded through 32 false representation orders and 15 consent agreements.

³⁹² *Id.* at 138.

³⁹³ Richard A. Serrano, *Man's Pardon for '83 Crime Can't Aid Him in L.A. Probe*, L.A. TIMES, Feb. 7, 2001, at A4.

³⁹⁴ Douglas Pasternak, *Another Dubious Pardon*, U.S. NEWS & WORLD REP., Feb. 12, 2001, at 26.

Braswell's conviction was just the beginning of his legal troubles. Braswell pled no contest to grand theft after being arrested for burglary at the home of a former employee.³⁹⁵ He was sentenced to two years' probation to run concurrently with his federal sentence.³⁹⁶ Additionally, the Federal Trade Commission brought charges against Braswell in 1983. The FTC contended that his companies lacked adequate scientific evidence supporting the claims of their hair-loss products and that the companies declined to pay refunds promised to customers.³⁹⁷ Braswell's companies settled FTC charges by paying \$610,000 in civil penalties, and the FTC permanently barred them from making performance claims for any product without reliable scientific evidence.³⁹⁸

For over a decade, the herbal remedy dealer managed to evade the attention of federal regulators. In 1995, the Food and Drug Administration issued an import alert on products manufactured by Gero Vita International, Braswell's principal mail-order marketer of natural medicines.³⁹⁹ The FDA determined that Gero Vita was promoting certain products as "drugs" that could cure various ailments without first receiving FDA approval.⁴⁰⁰ The alert enabled FDA to seize Gero Vita products imported into the United States. It was in effect at the time President Clinton pardoned Braswell on January 20, 2001, and it was still in effect as of January 2002.⁴⁰¹ Also in 1995, the National Advertising Division of the Council of Better Business Bureaus concluded that Gero Vita could not substantiate claims for one of its products claiming to be an "Anti-Aging Pill."⁴⁰² The company advertisement declared that the pill "improves memory . . . Sex Drive! And reduces chance of Heart Attack by 83%!"⁴⁰³ The Better Business Bureau warned consumers that these proclamations were "exaggerated and overstated" and "misleading."⁴⁰⁴

Three sports celebrities were also victims of Glenn Braswell's fraudulent practices. Race-car driver Richard Petty, Hall of Fame quarterback Len Dawson, and baseball Hall of Famer Stan Musial filed suit against Braswell in 1997 for falsely portraying these celebrities as endorsing a Braswell product that purportedly treats prostate cancer.⁴⁰⁵ In peddling Prostata, Braswell inappropriately and inaccurately warned that the sports figures "waited too long and are suffering" from prostate problems.⁴⁰⁶ He then mailed brochures featuring the celebrities'

³⁹⁵ "Swindlers, Hucksters and Snake Oil Salesman: Hype and Hope Marketing Anti-Aging Products to Seniors," *Hearing Before the Senate Special Committee on Aging*, 107th Cong. 27 (prepared statement of E. Vernon F. Glenn, Attorney, Law Offices of E. Vernon F. Glenn). Glenn represented several clients in a defamation lawsuit against Braswell.

³⁹⁶ *Id.*

³⁹⁷ Federal Trade Commission Press Release, *Braswell Prohibited Permanently from Advertising Baldness 'Cures' Without FDA Approval of Product, Under Federal Trade Commission Consent Judgment*, Sept. 16, 1983.

³⁹⁸ *Id.*

³⁹⁹ Michael Isikoff, *The Bush Clan's Donor Problem*, NEWSWEEK, Sept. 29, 2000, at 2000 WL 33208288.

⁴⁰⁰ *Id.*

⁴⁰¹ See Food and Drug Administration Import Alert #66-41, *Unapproved New Drugs Promoted in the U.S.*, Sept. 28, 2000.

⁴⁰² Michael Isikoff, *The Bush Clan's Donor Problem*, NEWSWEEK, Sept. 29, 2000, at 2000 WL 33208288.

⁴⁰³ *Id.* (quoting Gero Vita Advertisement)

⁴⁰⁴ *Id.*

⁴⁰⁵ Joan McKinney, *New 'Snake-Oil' Industry Roasted*, BATON ROUGE ADVOC., Sept. 11, 2001, at 1A.

⁴⁰⁶ Lucy Morgan, *Bush Brothers Pop Up in Potion Peddler's Magazine*, ST. PETERSBURG TIMES, Sept. 29, 2000, at A1.

photographs with their bogus endorsement to over 17 million addresses.⁴⁰⁷ As a result, subsequent sales of Prostata associated with those brochures totaled over \$5 million.⁴⁰⁸ The lawsuit accused Braswell of defamation, invasion of privacy, unfair trade practices, and intentionally inflicting emotional distress.⁴⁰⁹ In his two-hour deposition, Braswell invoked his Fifth Amendment privilege against self-incrimination 196 times.⁴¹⁰ According to the sports stars' attorney, the lawsuit was eventually settled out of court for "significant money."⁴¹¹

Undeterred by the settlement, the FDA's import alert, and the Better Business Bureau's consumer warning, Gero Vita continued to publish deceiving advertisements. In 1998, the editors of Consumer Reports wrote, "We see a lot of misleading marketing, but what spews out of Gero Vita Industries rivals the worst."⁴¹² Continuing its censure, Consumer Reports described Gero Vita's unsolicited booklet mailings as "masquerading as science. The booklets cite actual studies, but twist the findings to support the company's own unsubstantiated claims."⁴¹³

Despite drawing the attention of law enforcement agencies, various federal regulators, consumer advocate groups, and plaintiffs' attorneys, Braswell has continued to use misleading advertising to promote his products. Since the Prostata lawsuit, Braswell has been sued twice more for misrepresenting the results of medical research.⁴¹⁴ Arthritis specialist Dr. Joel Kremer filed suit against two Braswell companies for creating the appearance in an advertisement that Dr. Kremer's research supported the effectiveness of a Braswell arthritis product.⁴¹⁵ According to the lawsuit, the advertisement also falsely portrayed Dr. Kremer as endorsing an anti-arthritis elixir,⁴¹⁶ an allegation similar to the one Braswell settled in the Prostata lawsuit. In a similar lawsuit, Braswell allegedly misused another doctor's research once again for an anti-arthritis product.⁴¹⁷ This lawsuit asserts that Gero Vita distorted Dr. John Prudden's research to support the claim that the Gero Vita product supposedly rebuilt joints and stopped arthritis.⁴¹⁸ These suits were still pending as of September 2001.⁴¹⁹

⁴⁰⁷ "Swindlers, Hucksters and Snake Oil Salesman: Hype and Hope Marketing Anti-Aging Products to Seniors," *Hearing Before the Senate Special Committee on Aging*, 107th Cong. 26 (prepared statement of E. Vernon F. Glenn, Attorney, Law Offices of E. Vernon F. Glenn).

⁴⁰⁸ *Id.*

⁴⁰⁹ Lucy Morgan, *Bush Brothers Pop Up in Potion Peddler's Magazine*, ST. PETERSBURG TIMES, Sept. 29, 2000, at A1.

⁴¹⁰ Isabel Vincent, *The Canadian Connection to Clinton Pardon*, NAT'L POST, Mar. 3, 2001, at B1.

⁴¹¹ *Id.*

⁴¹² Consumer Reports, *quoted in* Peter Slevin, *Another Pardon Stirs Controversy; Herbal Marketer Faces U.S. Tax Evasion Probe*, WASH. POST, Feb. 6, 2001, at A3.

⁴¹³ *Id.*

⁴¹⁴ "Swindlers, Hucksters and Snake Oil Salesman: Hype and Hope Marketing Anti-Aging Products to Seniors," *Hearing Before the Senate Special Committee on Aging*, 107th Cong. 28-29 (prepared statement of E. Vernon F. Glenn, Attorney, Law Offices of E. Vernon F. Glenn).

⁴¹⁵ Kim Martineau, *Doctor Sues Firms Over Claims in Ad*, TIMES UNION (Albany, NY) Sept. 2, 2000, at B4.

⁴¹⁶ *Id.*

⁴¹⁷ "Swindlers, Hucksters and Snake Oil Salesman: Hype and Hope Marketing Anti-Aging Products to Seniors," *Hearing Before the Senate Special Committee on Aging*, 107th Cong. 28-29 (prepared statement of E. Vernon F. Glenn, Attorney, Law Offices of E. Vernon F. Glenn).

⁴¹⁸ *Id.*

⁴¹⁹ *Id.* at 29.

Braswell was under criminal investigation by federal prosecutors in Los Angeles for tax evasion when President Clinton pardoned him in January 2001.⁴²⁰ The federal inquiry focused on whether Braswell transferred millions of dollars offshore through a shell company to evade IRS detection.⁴²¹ Federal investigators described Braswell's actions as "a massive tax evasion and money-laundering scheme."⁴²² Court documents also allege that Braswell and his employees attempted to conceal documents from the government.⁴²³ These allegations are based on documents and company computers seized from Braswell's principal holding company, G.B. Data Systems, after IRS agents raided the office in 1999.⁴²⁴ Should any charges be brought based on these allegations, federal prosecutors anticipate that Braswell will argue that his pardon included the pending tax evasion investigation.⁴²⁵ Moreover, if Braswell were convicted on tax evasion charges, the pardon could lessen his sentence by neutralizing past felonies.⁴²⁶ In either scenario, the legal consequences of the pardon could potentially reward Braswell with unjustified leniency.

B. Consideration of the Braswell Pardon by the Clinton White House

The active criminal investigation into Braswell might have disqualified him if normal pardon procedures were followed.⁴²⁷ Yet, Braswell's petition bypassed the traditional route through the Justice Department and went directly to the White House.⁴²⁸ Legal experts agree that had the FBI conducted the background investigation instead of the White House, Braswell's application would have been rejected quickly.⁴²⁹ A former pardon attorney at the Justice Department during the Carter Administration said, "If it had gone through normal channels, it never would have gotten through. Nobody ever gets a pardon when they are under active investigation for other offenses – ever."⁴³⁰ Margaret Colgate Love, the Justice Department's pardon attorney from 1990 to 1997,⁴³¹ concurred that evidence of an ongoing investigation should stop a president from issuing a pardon because the "law-abidingness" of the individual is

⁴²⁰ Peter Slevin, *Another Pardon Stirs Controversy; Herbal Marketer Faces U.S. Tax Evasion Probe*, WASH. POST, Feb. 6, 2001, at A3.

⁴²¹ *Id.*

⁴²² *Id.*

⁴²³ Michael Isikoff, *The Bush Clan's Donor Problem*, NEWSWEEK, Sept. 29, 2000, at 2000 WL 33208288.

⁴²⁴ *Id.*

⁴²⁵ Michael Moss, *Officials Say Investigation Will Go On Despite Pardon*, N.Y. TIMES, Feb. 8, 2001, at A24. A former White House spokesman said that the President did not intend for the pardon to cover anything other than the felonies Braswell committed in 1983. Richard A. Serrano, *Man's Pardon for '83 Crime Can't Aid Him in L.A. Probe*, L.A. TIMES, Feb. 7, 2001, at A4. The Justice Department also concluded that the U.S. Attorney's Office in Los Angeles could continue its investigation of Braswell's potential felonies involving his offshore corporations and accounts.

⁴²⁶ Michael Moss, *Officials Say Investigation Will Go On Despite Pardon*, N.Y. TIMES, Feb. 8, 2001, at A24.

⁴²⁷ Kurt Eichenwald and Michael Moss, *Pardon for Subject of Inquiry Worries Prosecutors*, N.Y. TIMES, Feb. 6, 2001, at A1.

⁴²⁸ *Id.*

⁴²⁹ *Id.*

⁴³⁰ Tim Nickens, *Pardon of Man Under Investigation Questioned*, ST. PETERSBURG TIMES, Feb. 8, 2001, at 6B.

⁴³¹ Leon Bruneau, *Clinton Aides Testify Before Congress on Pardon Controversy*, AGENCE FRANCE-PRESSE, Mar. 1, 2001, at 2001 WL 2352895.

a critical threshold in determining whether a petitioner is deserving.⁴³² Love described the final Clinton pardons as “an accident waiting to happen.”⁴³³

How such an undeserving petitioner received the President’s ultimate grant of forgiveness can be explained by Braswell’s powerful and high-priced connections. Braswell was represented in his pardon bid by Kendall Coffey, a former U.S. Attorney appointed by President Clinton⁴³⁴ and an attorney for former Vice President Al Gore during the Florida vote recount.⁴³⁵ However, it is unclear whether Coffey called on his own influence with the Clinton Administration to obtain the Braswell pardon. Rather, it appears that Coffey’s main contribution to the pardon effort was to hire Hugh Rodham.

On January 12, 2001, Coffey sent a note to Rodham requesting his assistance. The note suggested that Rodham could earn a very large sum of money for his work.⁴³⁶ In his note regarding Braswell, Coffey wrote:

The client proposes \$20,000 for a best efforts submission and an \$80,000 success payment. Both numbers are negotiable, especially the latter. The initial payment can be wired Tuesday a.m. if the representation is accepted.⁴³⁷

Rodham accepted the representation but not before negotiating a fee of \$230,000 for his work if successful.⁴³⁸ On January 17, 2001, two days before the pardon was issued, Coffey sent Rodham a fax at the White House.⁴³⁹ The fax included a three-page letter written by Coffey to the President expounding on the merits of the Braswell case.⁴⁴⁰ With Braswell’s crime-ridden background in mind, in addition to the current investigation for tax fraud, excerpts from Coffey’s letter would be laughable if not for the gravity of the situation. In the letter, Coffey describes

⁴³² Peter Slevin, *Clinton Termed Unaware of Braswell Probe; Spokesman Says Pardon Covered Only '83 Case, Not Possible New Charges*, WASH. POST, Feb. 7, 2001, at A20.

⁴³³ Leon Bruneau, *Clinton Aides Testify Before Congress on Pardon Controversy*, AGENCE FRANCE-PRESSE, Mar. 1, 2001, at 2001 WL 2352895.

⁴³⁴ Coffey’s tenure as U.S. Attorney ended under an ethical cloud. After losing a major drug trafficking trial in February 1996, Coffey visited the Lipstik Adult Entertainment Club, charged a \$900 magnum of Dom Perignon champagne to his American Express card, and retired to the club’s private champagne room with one of the dancers. David Adams, *Top Lawman Quits After Topless Bar Tale*, ST. PETERSBURG TIMES, May 18, 1996, at 1A. Reports indicate that, after the dancer rebuffed Coffey’s advances towards her, Coffey grabbed the dancer, pulled her towards him, and bit her left upper arm. The bite broke the dancer’s skin and drew blood, according to the dancer’s husband. After meeting with then-Attorney General Janet Reno about the incident, Coffey resigned as U.S. Attorney. *Federal Attorney Resigns*, TAMPA TRIBUNE, May 18, 1996, at 1.

⁴³⁵ Tim Nickens, *Pardon of Man Under Investigation Questioned*, ST. PETERSBURG TIMES, Feb. 8, 2001, at 6B.

⁴³⁶ Kendall Coffey Document Production 0003 (Memorandum from Kendall Coffey, Attorney, to Hugh Rodham, Attorney (Jan. 12, 2001)) (Exhibit 48). Along with this note, Coffey attached a copy of Braswell’s pardon petition.

⁴³⁷ *Id.*

⁴³⁸ See Letter from Nancy Luque, Partner, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 28, 2001) (within Appendix I). News reports indicated that Rodham received \$200,000 for his work on Braswell’s pardon, but, according to Rodham’s attorney, Braswell made one payment of \$30,000 and then transferred \$200,000 by wire to Rodham’s law firm. Based on this information and Coffey’s note to Rodham, the \$30,000 payment likely was for a “best efforts submission” by Rodham that he would receive regardless of outcome. The \$200,000 wire transfer likely was received as a “success payment.”

⁴³⁹ Kendall Coffey Document Production 0004-07 (Fax from Kendall Coffey, Attorney, Kendall Coffey, P.A., to Hugh Rodham (Jan. 17, 2001)) (Exhibit 49).

⁴⁴⁰ See *id.*

Braswell as a “visionary” with an “exemplary record of business accomplishments” who is “truly deserving of the extraordinary measure of mercy embodied in a Presidential pardon.”⁴⁴¹ Coffey also opined that “[g]ranting a pardon to bring justice and healing to a man’s life would further the extraordinary legacies that have defined your Presidency.”⁴⁴²

At this point, Coffey’s work pushing the Braswell pardon was finished,⁴⁴³ and Braswell’s fate was placed in Rodham’s hands. In the final days of the Clinton Administration, Rodham contacted Meredith Cabe of the White House Counsel’s Office at least twice.⁴⁴⁴ He forwarded Coffey’s letter of support for Braswell to Cabe, and he made a follow-up inquiry.⁴⁴⁵ According to Rodham’s attorney, these two actions were the extent of Rodham’s role in the Braswell pardon, a role for which he received \$230,000.⁴⁴⁶ Despite the huge reward for success, his close relationship with the President, and his living in the White House, Rodham claims he never discussed either Braswell or Vignali with President Clinton or Hillary Clinton.⁴⁴⁷ However, the small circle of aides advising the former President admit that Clinton and Rodham may have had private discussions to which staffers were not privy.⁴⁴⁸

Among the staffers assisting the President with the pardon petitions were members of the White House Counsel’s Office. Meredith Cabe recalls discussing the Braswell pardon with Rodham.⁴⁴⁹ In fact, another associate counsel at the White House, Eric Angel, was also aware that Rodham was involved with the Braswell case.⁴⁵⁰ When asked how he knew of Rodham’s advocacy, Angel responded, “I think his name was on an envelope or Meredith mentioned it.”⁴⁵¹ Based on the pardon petition and the White House’s cursory investigation, Angel did not oppose the Braswell pardon and remembers no other staff member opposing the Rodham-backed pardon either.⁴⁵²

One of the President’s closest advisors, White House Counsel Beth Nolan, was also aware that Rodham was advocating Braswell’s petition.⁴⁵³ Ms. Nolan knew that Mr. Rodham circumvented the Justice Department and filed the Braswell petition directly with the White House.⁴⁵⁴ In fact, Nolan brought the Braswell pardon to Cabe’s attention.⁴⁵⁵ Ms. Nolan

⁴⁴¹ *Id.*

⁴⁴² *Id.*

⁴⁴³ Kendall Coffey Document Production 0001-02 (Record of Professional Services Rendered Regarding Braswell Clemency Application (Feb. 4, 2001)) (Exhibit 50).

⁴⁴⁴ Letter from Nancy Luque, Partner, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 28, 2001) (within Appendix I).

⁴⁴⁵ *Id.*

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.*

⁴⁴⁸ Christopher Marquis and Michael Moss, *A Clinton In-law Received \$400,000 in 2 Pardon Cases*, N.Y. TIMES, Feb. 22, 2001, at A1.

⁴⁴⁹ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

⁴⁵⁰ Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

⁴⁵¹ *Id.*

⁴⁵² *Id.*

⁴⁵³ “The Controversial Pardon of International Fugitive Marc Rich,” *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 413 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

⁴⁵⁴ *Id.* at 382.

⁴⁵⁵ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

personally handed the Braswell file to Cabe and Angel.⁴⁵⁶ Nolan then requested that Cabe inspect the petition because Nolan believed it was the type of case in which the President was interested.⁴⁵⁷ Finally, both Cabe and Nolan recall discussing the Braswell petition in a meeting with the President.⁴⁵⁸ Despite Rodham's oddly intense interest in an obscure herbal remedy dealer from South Florida, Nolan claims that she was unaware Rodham was receiving a fee for his advocacy.⁴⁵⁹ Cabe explained that the President had a "general articulation" of types of cases he wanted to consider.⁴⁶⁰ She recalled that President Clinton believed that felons convicted a long time ago, but who now abided by the law, deserved to have their civil rights restored.⁴⁶¹ Based on general agreement among White House staff, Braswell fell into this category and deserved clemency.⁴⁶²

In a carefully worded statement, President Clinton issued a similar claim.⁴⁶³ The former President said he had no knowledge that Rodham received a contingency fee for his work on the Braswell application and insisted that Rodham return any monies received.⁴⁶⁴ The President's careful use of the phrase "contingency fee" leaves open the possibility that he was aware Braswell was paying Rodham, but not the details of their arrangement. Rodham's attorney Nancy Luque mailed a \$230,000 check to Braswell on February 23, 2001,⁴⁶⁵ after Rodham's conduct was widely reported and criticized in the press.⁴⁶⁶

In the face of widespread criticism from Republicans and Democrats alike, Luque somehow maintained that "Hugh Rodham has done absolutely nothing wrong."⁴⁶⁷ Most disagreed with Luque's viewpoint. President Clinton declared that he and Hillary were "deeply disturbed" by news reports of Rodham's actions.⁴⁶⁸ In a separate statement, Hillary Clinton stated her belief that "the payments should be returned immediately."⁴⁶⁹ Other critics more forcefully condemned Rodham. Terry McAuliffe, Chairman of the Democratic National Committee, declared, "What he did was absolutely wrong."⁴⁷⁰ The DNC Chairman called on Rodham to "fully account for his actions."⁴⁷¹

⁴⁵⁶ Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

⁴⁵⁷ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

⁴⁵⁸ *Id.* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 413 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

⁴⁵⁹ *Id.*

⁴⁶⁰ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

⁴⁶¹ *Id.*

⁴⁶² *Id.*

⁴⁶³ Jerry Seper, *Hillary's Brother Returns Cash for Pardon Work*, WASH. TIMES, Feb. 22, 2001, at A1.

⁴⁶⁴ *Id.*

⁴⁶⁵ Letter from Nancy Luque, Partner, Reed Smith, to Glenn Braswell (Feb. 23, 2001) (Exhibit 42).

⁴⁶⁶ Reports detailing Rodham's receipt of over \$200,000 from Braswell appeared on the front page of *The New York Times*, *Washington Post*, *Washington Times*, *Wall Street Journal*, *Los Angeles Times*, and *USA Today*.

⁴⁶⁷ Christopher Marquis and Michael Moss, *A Clinton In-law Received \$400,000 in 2 Pardon Cases*, N.Y. TIMES, Feb. 22, 2001, at A1.

⁴⁶⁸ Jerry Seper, *Hillary's Brother Returns Cash for Pardon Work*, WASH. TIMES, Feb. 22, 2001, at A1.

⁴⁶⁹ *Id.*

⁴⁷⁰ Christopher Marquis and Michael Moss, *A Clinton In-law Received \$400,000 in 2 Pardon Cases*, N.Y. TIMES, Feb. 22, 2001, at A1.

⁴⁷¹ *Id.*

As for Braswell, he has been unable to steer clear of allegations of misconduct. In addition to the federal tax evasion inquiry ongoing in Los Angeles, Braswell was subpoenaed to testify before a Senate Committee investigating health scams in September 2001.⁴⁷² At the hearing, the former chief executive officer of a Braswell company testified that its products are “laden with lies and deception”⁴⁷³ and that Braswell continues to “prey on the elderly and infirmed.”⁴⁷⁴ Due in part to advertisements containing “outright false statements,” Braswell’s companies generate annual revenues of approximately \$200 million.⁴⁷⁵ The companies are organized to create the appearance of foreign ownership in ghost locations so any individual or agency seeking to locate the company will be delayed.⁴⁷⁶ In response to these weighty allegations, Braswell invoked his Fifth Amendment right against self-incrimination and refused to answer questions posed by the Committee.⁴⁷⁷ Braswell similarly refused a request for an interview by Committee staff.⁴⁷⁸

III. HUGH RODHAM’S EFFORTS TO OBTAIN CLEMENCY FOR THE LUMS

A. Background on Gene and Nora Lum

Gene and Nora Lum were prominent Democratic contributors and fundraisers who gave more than \$90,000 to the Democratic Party and raised at least \$250,000 more.⁴⁷⁹ The Lums were especially close to former DNC Chair and Commerce Secretary Ron Brown. In 1992, at the request of Ron Brown, the Lums established the Asian Pacific Advisory Council to organize the Asian-Pacific American community and raise funds for the Democratic National Committee. In 1993, the Lums purchased an oil and gas company in Oklahoma and named it Dynamic Energy Resources. They hired Secretary Brown’s son, Michael, to work at Dynamic Energy Resources. Although he did little work for the Lums, he was given \$500,000 in company stock and a country club membership worth \$60,000.⁴⁸⁰

Many of the Lums’ political contributions were illegal, and in 1997 the Lums pleaded guilty to making \$50,000 in illegal conduit contributions to the DNC and the campaigns of Senator Edward Kennedy and Stuart Price. Their daughter, Trisha Lum, and Michael Brown also pled guilty to misdemeanor charges of making conduit contributions. As part of their plea agreement, Gene and Nora Lum were sentenced to 5 months in home detention and 5 months in

⁴⁷² William M. Welch, *Senate Probes ‘Anti-Aging’ Claims*, USA TODAY, Sept. 10, 2001, at A7.

⁴⁷³ “Swindlers, Hucksters and Snake Oil Salesman: Hype and Hope Marketing Anti-Aging Products to Seniors,” *Hearing Before the Senate Special Committee on Aging*, 107th Cong. 8 (testimony of Mike O’Neal, former Chief Executive Officer, GB Data Systems)

⁴⁷⁴ *Id.* at 11.

⁴⁷⁵ *See id.* at 8-9.

⁴⁷⁶ *Id.* at 9.

⁴⁷⁷ Dennis Camire, *President of Dietary Supplement Firm Takes Fifth in Senate Questioning*, GANNETT NEWS SERVICE, Sept. 11, 2001, at 2001 WL 5112568.

⁴⁷⁸ Letter from James C. Wilson, Chief Counsel, Comm. on Govt. Reform, to Henry F. Schuelke, III, Partner, Janis, Schuelke and Wechsler (February 26, 2002) (within Appendix I).

⁴⁷⁹ Jerry Seper, *Brown Son Gets Probation and Fine; Illegal Donations Made in ‘94 Races*, WASH. TIMES, Nov. 22, 1997, at A2; John Solomon, *Couple to Plead Guilty to Illegal \$50,000 Donation*, ASSOCIATED PRESS POLITICAL SERVICE, May 22, 1997, at 1997 WL 2527905.

⁴⁸⁰ Jerry Seper, *Couple Jailed for Gifts to Democrats*, WASH. TIMES, Sept. 10, 1997, at A10.

a halfway house and were ordered to pay a \$30,000 fine.⁴⁸¹ In August 1998, Gene Lum also pleaded guilty to tax fraud for filing tax returns claiming more than \$7.1 million in false deductions.⁴⁸² In June 1999, Gene Lum was sentenced to two years in prison.⁴⁸³

B. Hugh Rodham Approaches the White House About the Possibility of a Pardon for the Lums

The Committee has attempted to interview Gene Lum, Nora Lum, and their daughter Nicole Lum. All three have refused to cooperate with the Committee's investigation. Hugh Rodham also refused to cooperate with the Committee's request for an interview. Therefore, it is difficult to obtain a full understanding of the Lums' efforts to obtain executive clemency. However, sufficient evidence exists to conclude that the Lums did attempt to obtain executive clemency and that Hugh Rodham lobbied the White House as part of that effort. It is not clear why Rodham lobbied on behalf of the Lums or why their request was rejected.

It appears that the Lums had a relationship with Hugh Rodham predating their efforts to obtain executive clemency. The Lums' daughter Nicole described Hugh Rodham was a "business associate and a friend."⁴⁸⁴ This relationship is supported by the fact that, on January 26, 2001, Hugh Rodham paid Nicole Lum \$20,420.⁴⁸⁵ However, Nicole Lum refused to elaborate on the nature of the relationship between Hugh Rodham and her family or the purpose of the payment made by Rodham.

In late 2000, the Lums apparently began their efforts to obtain executive clemency. In December 2000, Nora Lum called Joel Wohlgemuth, the attorney who represented her husband in his tax case, and asked him to compile a variety of documents related to their criminal cases and send them to Hugh Rodham at the White House.⁴⁸⁶ Wohlgemuth then compiled a packet of documents relating to both the tax case against Gene Lum and the campaign fundraising case against Gene and Nora Lum.⁴⁸⁷ Wohlgemuth sent the documents to Rodham at the White House

⁴⁸¹ Press Release 01-182, *Thai Businesswomen Sentenced On Campaign Financing Charges*, Department of Justice, Apr. 20, 2001. In particular, the Lums pleaded to using Dynamic Resources to funnel \$50,000 in illegal contributions to the 1994 re-election campaign of Senator Edward Kennedy and to Stuart Price's unsuccessful congressional campaign in Oklahoma. James Rowley, *The Justice Department Opposes Giving Convicted ...*, ASSOCIATED PRESS POLITICAL SERVICE, Oct. 15, 1997, at 1997 WL 2555487; Federal Document Clearing House, Department of Justice, "New Jersey Attorney Sentenced in Campaign Finance Case," Oct. 12, 2000 (summarizing Campaign Task Force prosecutions). The Lums admitted making the donations through "straw donors," including their daughter, Trisha, and Michael Brown. James Rowley, "The Justice Department Opposes Giving Convicted ...," ASSOCIATED PRESS POLITICAL SERVICE, Oct. 15, 1997, at 1997 WL 2555487. The Lums also admitted to having given Brown thousands of dollars in shareholder and consulting fees, which were given to friends to forward to Kennedy's re-election campaign. *Id.*

⁴⁸² *Id.*

⁴⁸³ Press Release 01-182, *Thai Businesswomen Sentenced On Campaign Financing Charges*, Department of Justice, Apr. 20, 2001.

⁴⁸⁴ Notes of Conversation Between Pablo E. Carrillo, Counsel, Comm. on Govt. Reform, and Nicole Lum (Aug. 28, 2001).

⁴⁸⁵ See First Union Document Production (Check number 1314 from Rodham & Fine, P.A. IOTA Account to "Ms. Nikki Lum" for \$20,420 (Jan. 26, 2001)) (Exhibit 51).

⁴⁸⁶ Telephone Interview with Joel Wohlgemuth, Partner, Norman, Wohlgemuth, Chandler & Dowell (Jan. 17, 2002).

⁴⁸⁷ *Id.*

in late December 2000.⁴⁸⁸ In early January 2001, Rodham called Wohlgemuth and said that the Justice Department did not have the documents Wohlgemuth had sent to the White House and asked him to resend them directly to Meredith Cabe, the associate White House Counsel responsible for vetting clemency applications, and one other person whose name Wohlgemuth could not recall.⁴⁸⁹ Wohlgemuth also asked the Lums' criminal attorneys in their campaign finance-related case to forward the Lums' presentence report directly to Cabe.⁴⁹⁰ On January 18, 2001, Cabe received the Lums' presentence report from Caplin & Drysdale.⁴⁹¹

In January 2001, Hugh Rodham telephoned Meredith Cabe and spoke to her about the prospects of obtaining pardons for Gene and Nora Lum.⁴⁹² Cabe found the case Rodham presented in support of the Lums unimpressive, so she "just heard him out."⁴⁹³ Cabe relayed the substance of her discussion with Rodham about the Lums to Beth Nolan and Bruce Lindsey. Cabe also recalls that later, shortly before the end of the Clinton Administration, she again raised the issue of the Lum pardons with Nolan and Lindsey, and they made it clear to Cabe that the Lums were not going to receive pardons. While Cabe did not know why the Lum pardons were not seriously considered, one anonymous White House source told the press that "senior White House aides had spread the word that clemencies would not be available for those who had been convicted in the past of campaign finance irregularities involving the Democratic Party."⁴⁹⁴

Hugh Rodham has refused to participate in an interview with Committee staff regarding his pardon efforts. However, Rodham's attorney has publicly stated that Rodham "did not

⁴⁸⁸ *Id.* The Federal Express package addressed to Hugh Rodham at the White House that contained the documents was reportedly dated December 28, 2000, at 11:11 a.m. The Lawyer's Column, *Lobbyist? Who's a Lobbyist? When It Comes to Clemency, They Are Most Likely Advocates*, WASH. POST, Mar. 5, 2001, at E8. Because Rodham needed the documents immediately at that point, Wohlgemuth sent the documents directly to him through the Usher's Office so that it would not be subject to, and therefore delayed by, onerous security measures that might have had the package rerouted through an offsite location for screening. Telephone Interview with Joel Wohlgemuth, Partner, Norman, Wohlgemuth, Chandler & Dowell (Jan. 17, 2002).

⁴⁸⁹ *Id.*

⁴⁹⁰ Telephone Interview with Cono Namorato and Scott Michel, Partners, Caplin & Drysdale (Jan. 17, 2002). This was the extent of Namorato and Michel's involvement in the Lums' clemency matter. *Id.* At no time did they speak to Hugh Rodham about that, or any other, matter. *Id.*

⁴⁹¹ *Id.*; NARA Document Production (Cover Letter and Presentence Investigation Report from Scott Michel, Partner, Caplin & Drysdale, to Meredith Cabe, former Associate Counsel to the President, the White House (July 16, 1997)) (Exhibit 52).

⁴⁹² Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001); James V. Grimaldi & Lois Romano, *Two Others Rodham Helped Didn't Win Pardons; Clinton Relative Called White House on Behalf of Former Fundraisers*, WASH. POST, Feb. 26, 2001, at A1. According to one unnamed source, during that conversation, "[Rodham] was expressing some interest in the prospects of the Lums [sic] getting a pardon. He wanted to know where it stood, what the likelihood of a pardon might be." Stephen Braun and Richard Serrano, *More Clemency Lobbying by Rodham Alleged; Commutations; Former President Clinton's Brother-In-Law Called a White House Lawyer About a Pardon For a Couple Convicted of Illegal Campaign Contributions*, L.A. TIMES, Feb. 26, 2001, at A1.

⁴⁹³ Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

⁴⁹⁴ Stephen Braun and Richard Serrano, *More Clemency Lobbying by Rodham Alleged; Commutations; Former President Clinton's Brother-In-Law Called a White House Lawyer About a Pardon For a Couple Convicted of Illegal Campaign Contributions*, L.A. TIMES, Feb. 26, 2001, at A1.

represent the Lums. He was asked to represent them. He declined.”⁴⁹⁵ Luque also publicly noted that Rodham “did not represent [the Lums] in any way, shape or form in connection with any pardon request” and that Rodham “did not advocate on [the Lums’] behalf.” Luque’s statement is in direct conflict with Meredith Cabe’s clear recollection that Hugh Rodham called her about the Lum pardons and lobbied her on behalf of the Lums. Ultimately, Luque modified her earlier public statement when she noted that Rodham in fact played “a negligible role” in pursuing executive clemency for the Lums.⁴⁹⁶

It remains unclear what, if any, amount of money was paid by Rodham to the Lums. Also unclear is whether there was any arrangement for a success fee in the event that Rodham was successful. The refusal of Rodham and the Lums to cooperate with the Committee only heightens the suspicion that some sort of financial arrangement, similar to Rodham’s payment arrangement with Horacio Vignali and Glenn Braswell, existed in this case.

IV. FAILURE OF KEY PARTIES TO COOPERATE IN THE HUGH RODHAM INVESTIGATION

A. Hugh Rodham

Hugh Rodham was a central figure in both the Vignali and Braswell matters. However, he extended only partial cooperation to the Committee. On February 21, 2001, Chairman Burton sent Hugh Rodham a letter posing a number of questions regarding his work lobbying for pardons and commutations for various individuals.⁴⁹⁷ This letter also requested Rodham to produce records to the Committee regarding his lobbying efforts. On February 28, 2001, Nancy Luque, counsel for Rodham, provided brief answers on behalf of Rodham.⁴⁹⁸ On March 7, 2001, Luque provided to the Committee records regarding Rodham’s efforts to obtain a pardon for Glenn Braswell.⁴⁹⁹ However, Luque did not provide any records regarding Rodham’s efforts to obtain a commutation for Vignali, claiming they were all protected by the attorney-client privilege. Shortly thereafter, Chairman Burton requested that Rodham participate in an interview with Committee staff.⁵⁰⁰ Rodham refused to participate in an interview but continued to offer to respond to written questions. Therefore, the Committee did send Rodham two letters asking questions regarding his role in the Vignali matter.⁵⁰¹ Rodham did provide extremely brief

⁴⁹⁵ Stephen Braun and Richard Serrano, *More Clemency Lobbying by Rodham Alleged; Commutations; Former President Clinton’s Brother-In-Law Called a White House Lawyer About a Pardon For a Couple Convicted of Illegal Campaign Contributions*, L.A. TIMES, Feb. 26, 2001, at A1.

⁴⁹⁶ David Johnston and Don Van Natta, Jr., *White House Logs Said To Show Pre-pardon Visits*, N.Y. TIMES, Feb. 27, 2001, at A20.

⁴⁹⁷ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Hugh Rodham (Feb. 21, 2001) (within Appendix I).

⁴⁹⁸ Letter from Nancy Luque, Partner, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 28, 2001) (within Appendix I).

⁴⁹⁹ Letter from Nancy Luque, Partner, Reed Smith, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Mar. 7, 2001) (within Appendix I).

⁵⁰⁰ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Nancy Luque, Partner, Reed Smith (Mar. 13, 2001) (within Appendix I).

⁵⁰¹ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Hugh Rodham c/o Nancy Luque, Partner, Reed Smith (July 30, 2001) (within Appendix I); Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Hugh Rodham c/o Nancy Luque, Partner, Reed Smith (Sept. 21, 2001) (within Appendix I).

responses to these questions. However, he refused to provide to the Committee any documents relating to his work on the Vignali matter. Rodham's refusal to provide records relating to the Vignali matter was not justified by the attorney-client privilege, and it appears that Rodham's invocation of the privilege was overbroad and made to hinder the Committee's investigation.

B. Horacio and Carlos Vignali

On March 9, 2001, Chairman Burton sent a letter to Edward Rucker, counsel for Horacio and Carlos Vignali, posing a number of questions regarding the effort to win a commutation for Carlos Vignali.⁵⁰² On March 15, 2001, Rucker responded, stating that, in light of the criminal investigation into the Vignali matter, it would be "inadvisable" to respond to the questions or produce documents to the Committee.⁵⁰³ On March 21, 2001, Chairman Burton issued subpoenas to the Vignali's, requiring them to produce records to the Committee regarding the effort to obtain a commutation.⁵⁰⁴ On March 22, 2001, Rucker sent a letter to the Committee stating that his clients invoked their Fifth Amendment right against self-incrimination and, therefore, would not respond to the subpoena.⁵⁰⁵

C. James Casso

During the Committee's investigation of the Vignali matter, James Casso emerged as a significant figure in the effort to win a commutation for Carlos Vignali. Beginning in July 2001, Committee staff began efforts to interview Mr. Casso. Mr. Casso spoke with staff but initially declined to answer any questions about his involvement in the Vignali matter. Casso explained that he wanted to see if other individuals involved in the investigation were cooperating before he decided whether to cooperate. In late July, Casso informed Committee staff that he would not answer questions in an interview but would like to receive questions in writing from the Committee. Accordingly, on July 25, 2001, Chairman Burton posed a number of written questions to Casso.⁵⁰⁶ However, Casso failed to respond to this letter, necessitating a number of telephone calls from Committee staff. Eventually, Casso hired a lawyer and refused to cooperate with the Committee. On August 27, 2001, Mark Overland, Casso's attorney, wrote to the Chairman and stated that Casso was "unable to provide" the requested information.⁵⁰⁷ Overland later explained that Casso could not provide the information because he had an attorney-client relationship with the Vignalis that prohibited him from discussing his work for the Vignalis.

⁵⁰² Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Edward A. Rucker, Esquire (Mar. 9, 2001) (within Appendix I).

⁵⁰³ Letter from Edward A. Rucker, Esquire, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Mar. 15, 2001) (within Appendix I).

⁵⁰⁴ Subpoena of Comm. on Govt. Reform to Horacio C. Vignali c/o Edward A. Rucker, Esquire (Mar. 21, 2001) (within Appendix II); Subpoena of Comm. on Govt. Reform to Carlos A. Vignali c/o Edward A. Rucker, Esquire (Mar. 21, 2001) (within Appendix II).

⁵⁰⁵ Letter from Edward A. Rucker, Esquire, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Mar. 22, 2001) (within Appendix I). *See also* Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Edward A. Rucker, Esquire (Apr. 4, 2001) (within Appendix I); Letter from Edward A. Rucker, Esquire, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Apr. 6, 2001) (within Appendix I).

⁵⁰⁶ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to James M. Casso, Partner, Alvarez-Glasman & Colvin (July 25, 2001) (within Appendix I).

⁵⁰⁷ Letter from Mark E. Overland, Partner, Shapiro, Borenstein & Dupont, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Aug. 27, 2001) (within Appendix I).

This representation was in direct conflict with earlier assurances given by Casso to Committee staff, namely that he never represented the Vignalis. It appears that Casso, like Hugh Rodham, invoked the attorney-client privilege in an overbroad and unjustified manner to avoid answering questions about his involvement in the Vignali matter.

D. Glenn Braswell

The Committee contacted Glenn Braswell's attorney, Henry F. Schuelke, and requested that Braswell participate in an interview on February 26, 2002. Through his attorney, Braswell declined to be interviewed⁵⁰⁸ and provided no documentation regarding his relationship with Kendall Coffey and Hugh Rodham.

E. Kendall Coffey

Kendall Coffey represented Glenn Braswell in his efforts to obtain clemency. On February 16, 2001, the Committee requested all records relating to Coffey's work on the Braswell pardon. Coffey's attorney provided records relevant to the Committee's request. These records raised a number of questions, and the Committee requested an interview with Coffey to resolve several issues regarding his role in the Braswell matter in an April 10, 2001, letter. After not receiving a response from Coffey or his attorney, the Committee again requested that Coffey participate in an interview in a letter dated June 12, 2001.⁵⁰⁹ On July 27, 2001, Coffey's attorney finally responded to the Committee by claiming that Coffey was "unable to participate in an interview" due to attorney-client privilege.⁵¹⁰ Without Coffey's full cooperation, the Committee has been unable to resolve questions about the relationship between Braswell, Coffey, and Rodham.

F. Gene and Nora Lum

The Lums likewise refused to cooperate with the Committee's investigation. On September 26, 2001, the Committee had Gene and Nora Lum served with a subpoena duces tecum.⁵¹¹ For almost two months, both avoided repeated requests by the Committee for compliance with its subpoena. After numerous delays, the Lums finally replied to the Committee's subpoena by claiming that they had no responsive documents.⁵¹² On February 12, 2002, Gene Lum declined to be interviewed by Committee staff unless he was granted immunity

⁵⁰⁸ Letter from James C. Wilson, Chief Counsel, Comm. on Govt. Reform, to Henry F. Schuelke, III, Partner, Janis, Schuelke & Wechsler (February 26, 2002) (within Appendix I) (confirmation letter).

⁵⁰⁹ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform Committee, to Jon A. Sale, Partner, Sale & Kuehne (June 12, 2001) (within Appendix I).

⁵¹⁰ Letter from Jon A. Sale, Partner, Sale & Kuehne, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform Committee (July 27, 2001) (within Appendix I).

⁵¹¹ Subpoena Duces Tecum from the Comm. on Govt. Reform to Gene K.H. Lum (Sept. 24, 2002) (within Appendix II); Subpoena Duces Tecum from the Comm. on Govt. Reform to Nora Lum (Sept. 24, 2002) (within Appendix II).

⁵¹² Letter from Gene K.H. Lum to Pablo E. Carrillo, Counsel, Comm. on Govt. Reform (Nov. 14, 2001) (within Appendix I). Despite indications of Rodham's involvement in seeking executive clemency for the Lums and suggestions of some sort of "business relationship" between the Lums and Rodham, the Lums claimed that they did not have any records whatsoever relating to Rodham. *Id.*

from prosecution.⁵¹³ Nora Lum likewise declined to cooperate with the Committee's investigation.⁵¹⁴

G. Nicole Lum

On August 28, 2001, Committee staff briefly spoke to Nicole Lum. During that conversation, Nicole Lum described Hugh Rodham as “a friend” and “a business associate.” Committee staff then attempted to probe into Nicole Lum's (and her family's) relationship with Rodham and Rodham's efforts to obtain a presidential pardon for Gene and Nora Lum. Nicole Lum indicated that she was unwilling to submit to an interview without her attorney present. However, Nicole Lum ultimately declined to retain an attorney for purposes of the Committee's investigation. On February 12, 2002, February 15, 2002, and February 20, 2002, Committee staff attempted to interview Nicole Lum.⁵¹⁵ Nicole Lum has not responded to the Committee's repeated requests.

⁵¹³ Letter from Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Gene K.H. Lum (Feb. 20, 2002) (within Appendix I) (memorializing request for prosecutorial immunity).

⁵¹⁴ Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Nora Lum (Feb. 20, 2001) (within Appendix I).

⁵¹⁵ Letter from Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Nicole M. Lum (Feb. 20, 2002) (within Appendix I) (requesting interview and noting telephone calls made on February 12, 2002, and February 15, 2002).